SENATE

WEDNESDAY, AUGUST 10, 1949

(Legislative day of Thursday, June 2, 1949)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

Rev. Bernard Braskamp, D. D., pastor, Gunton-Temple Memorial Presbyterian Church, Washington, D. C., offered the following prayer:

O Thou God of all wisdom and power, we pray that our minds and hearts may be enlightened and strengthened increasingly with the assurance that Thou art great in Thy goodness and good in Thy greatness.

Grant that we may be sensitive and responsive to the revelations of Thy will as we seek to find ways of blessedness and peace for all mankind.

May those who serve our Nation in the affairs of government bear clear and courageous testimony to their faith in Thee and in the ultimate triumph of justice and righteousness.

Hear us in Christ's name. Amen.

THE JOURNAL

On request of Mr. LUCAS, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, August 9, 1949, was dispensed with.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the amendment of the House to the bill (S. 1647) to eliminate premium payments in the purchase of Government royalty oil under existing contracts entered into pursuant to the act of July 13, 1946 (60 Stat. 533); asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ENGLE of California, Mr. REGAN, and Mr. BARRETT of Wyoming were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 4830) making appropriations for foreign aid for the fiscal year ending June 30, 1950, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. GARY, Mr. MCGRATH, Mr. YATES, Mr. CANNON, Mr. TABER, and Mr. WIGGLESWORTH were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

H. R. 242. An act to provide for the conferring of the degree of bachelor of science upon graduates of the United States Merchant Marine Academy;

H. R. 579. An act to permit the motor vessel *FLB–5005* to engage in the fisheries;

H. R. 607. An act for the relief of Harvey M. Lifset, formerly a major in the Army of the United States;

H. R. 691. An act for the relief of Lawrence Fontenot;

H. R. 748. An act for the relief of Louis Esposito;

H. R. 1017. An act for the relief of John Aaron Whitt;

H. R. 1023. An act for the relief of Lois E. Lillie;

H. R. 1034. An act for the relief of the Jansson Gage Co.;

H. R. 1055. An act for the relief of Agnese R. Mundy;

H. R. 3511. An act to declare the waterway (in which is located the Brewery Street Channel) from Brewery Street southeastward to a line running south 33°53'36" west from the south side of Chestnut Street at New Haven, Conn., a nonnavigable stream;

H. R. 4366. An act for the relief of Pearson Remedy Co.;

H. R. 5287. An act to amend title 28, United States Code, section 90, to create a Swainsboro division in the southern district of Georgia, with terms of court to be held at Swainsboro; and

H. R. 5365. An act to provide for the transfer of the vessel *Black Mallard* to the State of Louisiana for the use and benefit of the department of wildlife and fisheries of such State.

CALL OF THE ROLL

Mr. LUCAS. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Hill	Morse
Anderson	Hoey	Mundt
Baldwin	Holland	Murray
Brewster	Humphrey	Myers
Bridges	Hunt	Neely
Butler	Ives	O'Conor
Byrd	Jenner	O'Mahoney
Cain	Johnson, Colo.	Pepper
Capehart	Johnson, Tex.	Reed
Chapman	Johnston, S. C.	Robertson
Chavez	Kefauver	Russell
Connally	Kem	Saltonstall
Cordon	Kerr	Schoeppel
Donnell	Kilgore	Smith, Maine
Douglas	Knowland	Smith, N. J.
Downey	Langer	Sparkman
Dulles	Lodge	Stennis
Eastland	Long	Taft
Ecton	Lucas	Taylor
Ellender	McCarran	Thomas, Okla.
Ferguson	McCarthy	Thomas, Utah
Flanders	McClellan	Thye
Frear	McFarland	Tobey
Fulbright	McGrath	Tydings
George	McKellar	Vandenberg
Gillette	McMahon	Watkins
Graham	Magnuson	Wherry
Green	Malone	Wiley
Gurney	Martin	Williams
Hayden	Maybank	Young
Hendrickson	Miller	
Hickenlooper	Millikin	

Mr. MYERS. I announce that the Senator from Kentucky [Mr. WITHERS] is absent by leave of the Senate.

Mr. SALTONSTALL. I announce that the Senator from Ohio [Mr. BRICKER] is necessarily absent.

The VICE PRESIDENT. A quorum is present.

MEETING OF AMERICAN GROUP OF THE INTERPARLIAMENTARY UNION

The VICE PRESIDENT. The Chair, as president of the American group of the Interparliamentary Union, would like to announce that at 10 o'clock tomorrow morning in this Chamber the American group will meet and take such action as may be appropriate with reference to the forthcoming conference to be held beginning on the 7th of September, in Stockholm, Sweden.

WITHDRAWAL OF TREATIES—MESSAGE FROM THE PRESIDENT

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read, and referred to the Committee on Foreign Relations:

To the Senate of the United States:

A number of the treaties now pending in the Senate have become obsolete because of the signature of new treaties revising those instruments or because of other changed conditions affecting their provisions since they were submitted to the Senate. One of the older pending instruments, a convention concerning seafarers' pensions, I transmitted to the Senate with a statement that I did not request at that time advice and consent to ratification. No basis has since been found for recommending its approval.

With a view to placing the Calendar of Treaties on a current basis, I, therefore, desire to withdraw from the Senate the following treaties:

Notes exchanged at Washington May 3, 1944, between the Governments of the United States of America and Canada, amending in its application article V of the treaty signed on January 11, 1909, between the United States of America and his Britannic Majesty, to permit an additional diversion of the waters of the Niagara River above the falls (Executive E, 78th Cong., 2d sess.).

Protocol signed in Ottawa on October 3, 1945, to be annexed to, and to form a part of, the extradition treaty between the United States of America and Canada, signed in Washington on April 29, 1942 (Executive I, 79th Cong., 1st sess.).

Convention (No. 71) concerning seafarers' pensions, adopted by the International Labor Conference at its twenty-eighth session, held at Seattle, June 6–29, 1946 (Executive W, 80th Cong., 1st sess.).

Convention (No. 72) concerning vacation holidays with pay for seafarers, adopted by the International Labor Conference at its twenty-eighth session, held at Seattle, June 6–29, 1946 (Executive X, 80th Cong., 1st sess.).

Convention (No. 75) concerning crew accommodation on board ship, adopted by the International Labor Conference at its twenty-eighth session, held at Seattle, June 6–29, 1946 (Executive BB, 80th Cong., 1st sess.).

Convention (No. 76) concerning wages, hours of work on board ship, and manning, adopted by the International Labor Conference at its twenty-eighth session, held at Seattle, June 6–29, 1946 (Executive DD, 80th Cong., 1st sess.).

International wheat agreement, which was open for signature in Washington from March 6 until April 1, 1948 (Executive F, 80th Cong., 2d sess.).

HARRY S. TRUMAN.

THE WHITE HOUSE, *August 10, 1949.*

TRANSACTION OF ROUTINE BUSINESS

Mr. LUCAS. Mr. President, I ask unanimous consent that Senators may

present petitions and memorials, introduce bills and resolutions, and submit routine matters for the RECORD, as though the Senate were in the morning hour, and without debate.

The VICE PRESIDENT. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Post Office and Civil Service:

S. 1695. A bill to permit the sending of Braille writers to or from the blind at the same rates as provided for their transportation for repair purposes; without amendment (Rept. No. 888).

By Mr. O'CONOR, from the Committee on Expenditures in the Executive Departments:

S. 2072. A bill to create a commission to make a study of the administration of overseas activities of the Government, and to make recommendations to Congress with respect thereto; with an amendment (Rept. No. 889).

EXECUTIVE MESSAGES REFERRED

As in executive session,

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(For nominations this day received, see the end of Senate proceedings.)

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. FLANDERS (for himself and Mr. AIKEN):

S. 2416. A bill to authorize adjustments of rentals paid for premises leased for 10 or more years for use as post offices; to the Committee on Post Office and Civil Service.

By Mr. RUSSELL:

S. 2417. A bill for the relief of Michael Gold; to the Committee on the Judiciary.

By Mr. McCARTHY:

S. 2418. A bill for the relief of Helen Bridget Launders; to the Committee on the Judiciary.

By Mr. FULBRIGHT:

S. 2419. A bill to amend section 5 of the Federal Alcohol Administration Act, as amended, to provide a definition of the term "age" as used in labeling and advertising of whisky; to the Committee on Finance.

CODIFICATION OF ARTICLES OF WAR, ETC.—AMENDMENTS

Mr. LANGER submitted amendments intended to be proposed by him to the bill (H. R. 4080) to unify, consolidate, revise, and codify the Articles of War, the Articles for the Government of the Navy, and the disciplinary laws of the Coast Guard, and to enact and establish a Uniform Code of Military Justice, which were ordered to lie on the table and to be printed.

MILITARY ASSISTANCE TO FOREIGN NATIONS—AMENDMENTS

Mr. KNOWLAND. Mr. President, on behalf of myself, the Senator from Nevada [Mr. McCARRAN], the Senator from New Jersey [Mr. SMITH], the Senator from North Dakota [Mr. YOUNG], the Senator from Michigan [Mr. FERGUSON], the Senator from South Dakota [Mr. MUNDT], the Senator from Pennsylvania [Mr. MARTIN], the Senator from Washington [Mr. CAIN], the Senator from Connecticut [Mr. BALDWIN], the Senator from Nebraska [Mr. WHERRY], the Senator from Vermont [Mr. FLANDERS], the Senator from Maine [Mr. BREWSTER], and the Senator from Kansas [Mr. REED], I submit amendments dealing with China intended to be proposed by us, jointly, to the bill (S. 2388) to promote the foreign policy and provide for the defense and general welfare of the United States by furnishing military assistance to foreign nations. They are the same amendments previously submitted on behalf of myself and 13 other Members of the Senate, but the amendments are made to apply to the new bill which has been introduced.

The VICE PRESIDENT. The amendments will be received, printed, and referred to the Committees on Foreign Relations and Armed Services, jointly.

CHANGE OF REFERENCE

Mr. MILLIKIN. Mr. President, the bill (S. 2364) to provide for the utilization as a national cemetery of surplus Army Department-owned military real property at Fort Logan, Colo., was referred to the Committee on Armed Services on August 2, 1949. I have the consent of the chairman of that committee to move that the Committee on Armed Services be discharged from the further consideration of the bill, and that it be referred to the Committee on Interior and Insular Affairs, and I so move.

The VICE PRESIDENT. Is there objection to the motion of the Senator from Colorado? The Chair hears none, and the motion is agreed to.

TRIBUTE TO HERBERT HOOVER BY GEORGE SOKOLSKY

[Mr. SCHOEPPEL asked and obtained leave to have printed in the RECORD an article in tribute to Herbert Hoover, written by George Sokolsky and published in the Washington Times-Herald of August 9, 1949, which appears in the Appendix.]

THE PANAMANIAN HIGHWAY—ARTICLE FROM CHRISTIAN SCIENCE MONITOR

[Mr. SCHOEPPEL asked and obtained leave to have printed in the RECORD an article entitled "Maintaining of Vital Link Stirs Doubts," published in the Christian Science Monitor of August 3, 1949, which appears in the Appendix.]

THE SITUATION IN CHINA—EDITORIAL FROM THE WASHINGTON TIMES-HERALD

[Mr. WHERRY asked and obtained leave to have printed in the RECORD an editorial dealing with the situation in China, entitled "Stupidity or Betrayal?" published in the Washington Times-Herald of July 10, 1949, which appears in the Appendix.]

AMERICAN POLICY IN CHINA—ARTICLE BY RAY RICHARDS

[Mr. FERGUSON asked and obtained leave to have printed in the RECORD an article on United States mediation in China, written by Ray Richards and published in the Hearst newspapers of today, which appears in the Appendix.]

THE HAWAII STRIKE—EDITORIAL COMMENT

[Mr. BUTLER asked and obtained leave to have printed in the RECORD an editorial entitled "The Hawaii Strike," published in the Fairbanks (Alaska) News-Miner of August 3, 1949; also an editorial entitled "Hawaiians Help Themselves," published in the Omaha World-Herald of August 6, 1949, which appear in the Appendix.]

RECORD OF NATIONAL LABOR RELATIONS BOARD—EDITORIAL FROM NEW YORK HERALD TRIBUNE

[Mr. IVES asked and obtained leave to have printed in the RECORD an editorial entitled "Diminishing Backlog," published in the New York Herald Tribune of August 6, 1949, which appears in the Appendix.]

THE COUNCIL OF EUROPE—ARTICLE FROM NEW YORK TIMES

[Mr. O'CONOR asked and obtained leave to have printed in the RECORD an article entitled "The Council of Europe Is Born on the Rhine," written by Anne O'Hare McCormick and published in the New York Times of August 8, 1949, which appears in the Appendix.]

FOUR STUDENTS DISCOVER THE SOUTH—ARTICLE FROM NEW YORK HERALD TRIBUNE

[Mr. SPARKMAN asked and obtained leave to have printed in the RECORD an article entitled "Four Students Discover the South," originally published in the Next Voter, a student newspaper, and reprinted in the New York Herald Tribune of August 6, 1949, which appears in the Appendix.]

FAILURE OF PROGRAM TO RECONVERT LINERS "MARIPOSA" AND "MONTEREY"—EDITORIAL FROM THE CALL-BULLETIN, SAN FRANCISCO, CALIF.

[Mr. CAIN asked and obtained leave to have printed in the RECORD an editorial entitled "False Economy—Senate Action Scuttling Plan To Reconvert Liners *Mariposa, Monterey*, Blow to Merchant Marine," published in the Call-Bulletin of San Francisco, Calif., of August 4, 1949, which appears in the Appendix.]

RECIPROCAL TRADE AGREEMENT LEGISLATION—EDITORIAL FROM THE BALTIMORE SUN

[Mr. GEORGE asked and obtained leave to have printed in the RECORD an editorial entitled "Get the Trade Pact Bill Off the Senatorial Sidetrack," from the Baltimore Sun of August 7, 1949, which appears in the Appendix.]

WHAT'S WRONG WITH THE NORTH—ARTICLE BY HODDING CARTER

[Mr. FULBRIGHT asked and obtained leave to have printed in the RECORD an article entitled "What's Wrong With the North," written by Hodding Carter, and published in Look magazine for August 16, 1949, which appears in the Appendix.]

MORGENTHAU PLAN WAS FOOLISH DESTRUCTION—EDITORIAL FROM THE FARGO (N. DAK.) FORUM

[Mr. LANGER asked and obtained leave to have printed in the RECORD an editorial entitled "Morgenthau Plan Was Foolish Destruction," published in the Fargo (N. Dak.) Forum of August 4, 1949, which appears in the Appendix.]

ANTIQUATED ELECTORAL COLLEGE—EDITORIAL FROM THE WILLIAMS COUNTY (N. DAK.) FARMERS PRESS

[Mr. LANGER asked and obtained leave to have printed in the RECORD an editorial entitled "Antiquated Electoral College," published in the Williams County Farmers Press, of Williston, N. Dak., January 20, 1949, which appears in the Appendix.]

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. GEORGE, the Foreign Relations Committee and the Armed

Services Committee, holding joint hearings on military assistance to Atlantic Pact nations, were granted permission to meet during the session of the Senate today.

On request of Mr. LUCAS, a subcommittee of the Committee on Labor and Public Welfare was granted permission to meet during the session of the Senate today.

On request of Mr. MCCLELLAN, the Committee on Expenditures in the Executive Departments was granted permission to meet during the session of the Senate today.

TREASURY DEPARTMENT—COMMENTS ON HOOVER COMMISSION RECOMMENDATIONS

Mr. MCCLELLAN. Mr. President, I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks a statement which I have prepared, including comments by the Secretary of the Treasury, Hon. John W. Snyder, on recommendations in five Hoover Commission reports, one of which deals with the Treasury Department itself.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JOHN L. M'CLELLAN, CHAIRMAN, SENATE COMMITTEE ON EXPENDITURES IN THE EXECUTIVE DEPARTMENTS

Senator JOHN L. MCCLELLAN, chairman of the Senate Committee on Expenditures in the Executive Departments, released today a 19-page letter from John W. Snyder, Secretary of the Treasury, commenting on the recommendations in five Hoover Commission reports, of which one report deals with the Treasury Department itself, and the other four with across the board reports on general management, budgeting and accounting, personnel management, and general services.

With respect to the Hoover Commission Report on the Treasury Department, Mr. Snyder raises a number of disagreements with the various proposals made, seriously questioning the advisability of transferring the United States Coast Guard to the Department of Commerce on the ground that its enforcement of functions are not divisible from other enforcement activities. The letter reads:

"The Coast Guard has been with the Treasury Department since its inception, and many of its enforcement functions are interrelated with other Treasury enforcement groups. The Coast Guard, which, among other duties, patrols the areas just off the coast of the United States, aids in the enforcement of the laws which the Treasury must administer through the Bureaus of Customs and Narcotics. All of these functions are interrelated, and to split one from the other on the undocumented theory that Coast Guard bears a closer relationship to the major purposes of the Department of Commerce would be to look at only part of the picture. The Coast Guard also renders valuable assistance to the Alcohol Tax Unit of the Bureau of Internal Revenue several hundred times a year by airplane spotting of stills which are located throughout the United States. The loss of this coordinated service under one department head might result in a serious impairment to the enforcement of the liquor laws by the Alcohol Tax Unit."

Although the Hoover Commission was not definite in its recommendation that certain of the marine functions of the Bureau of Customs be transferred to the Department of Commerce, it did recommend a study. The Treasury contends that this proposal having twice been studied extensively within the last 7 years with negative results, and that any further inquiry into removing these functions from the Department would seem unnecessary.

Likewise, the Treasury objects to the Hoover Commission proposal that the Bureau of Narcotics be transferred to the Department of Justice, because:

"The United States Government is obligated under the International Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs (signed in 1931) to maintain a special organization to supervise the trade and suppress illicit traffic. Thus the Bureau of Narcotics could not be merged with any existing bureau or division in the Department of Justice."

After pointing out that President Roosevelt disapproved such a proposed transfer in 1933, after the problem had been studied by the Bureau of the Budget, the Treasury Department suggests that the Hoover Commission has "overemphasized the police work of the Bureau of Narcotics. The Harrison Narcotic Act, under which the Bureau operates, has been held constitutional solely on the ground that it is a revenue measure. Every case under this act involves revenue. Furthermore, the Bureau of Narcotics has close day-to-day relations with the Bureau of Internal Revenue in connection with the registration of persons dealing in narcotic drugs, monthly returns, and inventories of narcotic drugs, compromises of tax liability under the narcotic and marihuana laws, the assessment and collection of taxes and penalties under these laws, and the making of regulations. It is necessary for the two bureaus of the Treasury to work in the closest cooperation. The Bureau of Narcotics is also working continually with the Bureau of Customs in the suppression of illicit traffic. Almost all of the big cases which the Bureau of Narcotics undertakes require the extensive cooperation of the Bureau of Customs."

The Treasury is reluctant to take over various independent lending and guarantee agencies, contenting itself with the following expression of opinion:

"The recommendation that the Reconstruction Finance Corporation, the Export-Import Bank, and the Federal Deposit Insurance Corporation should be brought under the Secretary of the Treasury has been carefully considered. There is much to be said for the independent status which these agencies now enjoy. The policies of these agencies are, in many cases, governmental policies, set after consultation with the President and other Cabinet members, and they can therefore function independently. However, if it is the final determination to bring the Reconstruction Finance Corporation, Export-Import Bank, and the Federal Deposit Insurance Corporation activities under Cabinet administration, these agencies could also function as part of the Treasury."

The Treasury discusses adversely and at some length the proposed reorganization of its fiscal service. Relevant excerpts from the Treasury letter are as follows:

"The management of the Federal finances, which includes the management of the public debt, is now and should remain the responsibility of the Secretary of the Treasury. The law itself requires this. In many instances, decisions are made only after the approval of the President. With a debt the size of ours, the management of Federal finances is, of course, intertwined with the management of the public debt; and policy decisions with respect to governmental financing and public debt management are of the utmost importance to the whole country. The Secretary of the Treasury cannot delegate these important responsibilities; and there would be no value, to my mind, in directing him to do so in the reorganization plan.

"Moreover, the Commission recommendation that the Savings Bond Division, the Bureau of the Mint, the Bureau of Engraving and Printing, and the United States Secret Service be part of the proposed Fiscal Service, contravenes the basic recommendation of the Commission that the Secretary of the Treasury should have the authority to organize and control the Treasury Department. These organizations must be located where, in the judgment of the Secretary, they will be most effectively supervised."

Among other Hoover Commission recommendations, the Treasury is not opposed to the suggested new Monetary and Credit Council. The letter points out, however, that the Department has made every effort to coordinate the credit policies of 30 Federal agencies lending, guaranteeing, or insuring loans, and that if later Secretaries of the Treasury do not have a similar urge the establishment of a domestic lending council would not force them to. The Treasury has had successful experience in recent years with a career Fiscal Assistant Secretary, and therefore concurs with the proposed establishment of an Administrative Assistant Secretary charged with over-all budget, personnel, management functions on a career basis. The Secretary, however, questions the implementation of recommendation No. 7, which would provide that all officials of the Department below the rank of Assistant Secretary should preferably be appointed from the career service without Senate confirmation, stating that it has given the Department serious concern, and that Treasury would prefer that a study precede its adoption.

In concluding its comments on the report on the Department of the Treasury, the Secretary supports a plan of Government fidelity insurance, preferably relieving Federal officers and employees of the present cost of fidelity bonds by directly appropriated funds.

Among the recommendations dealing with Hoover Commission Report No. 1 on General Management, the Treasury commends the proposed authorization to the President to reorganize the President's office at will, to make appointments within the President's office without Senate confirmation except as to the Civil Service Commission, to determine membership and assignment of Cabinet committees, and to use advisory facilities rather freely. Other recommendations commended include the grouping of similar agencies into a much small number of departments, and the provision of clearer lines of authority for department heads.

The Treasury makes a special point about that part of Hoover Commission Recommendation No. 20, which provides that each department head should be given authority to assign funds appropriated by the Congress for a given purpose to that agency in his department which he believes can best effect the will of Congress. While agreeing that this drastic change from present budget procedure has many desirable elements, the Treasury letter urges that the proposal should first receive the consideration and careful thought of officials in the executive branch and in the Congress. Considerable study will have to precede a change in the appropriation of funds by the Congress.

The Secretary is in agreement with Commission recommendations dealing with the field services of Government departments. His letter indicates that the Treasury follows the policy of delegating authority to its field offices to make final decisions in appropriate circumstances, because of the following difficulties connected with the proper distribution, supervision, and coordination of field offices:

"Calling for a reexamination of the administrative regions and regional headquarters in order to obtain a more nearly comparable geographic distribution, deals with a complicated problem which cannot be solved easily. Special considerations of many kinds have dictated the establishment of

various regions for all field services supervised by the Treasury Department. The geographic boundaries of field service regional or district establishments are only one of any number of considerations which dictate the metes and bounds of field regions or districts."

With reference to the Hoover Commission across-the-board report on budgeting and accounting, the Treasury agrees with the Commission's statement that the budget and appropriation process is the heart of the management and control of the executive branch and that there is great need for reform in the method of budgeting and in the appropriation structure. To this statement, however, the Treasury Department adds the opinion that reform of the budget is one of the first and foremost policies of departmental management. Simplification of the budget document and a review of the budget process, both in the executive branch and in the legislative branch of the Federal Government, are prime goals in the management program which the Government is now undertaking.

The Treasury letter counts as one of the first steps of any process to bring about budget reform the recommendation, No. 2, which asks that Congress undertake a complete study of the appropriation structure without delay, and states that the Treasury Department stands ready to cooperate with the Bureau of the Budget and with the Congress on this vital project.

Bringing to bear special experience, the Treasury raises a question with reference to recommendation No. 3, which proposes that budget requests and other data consistently distinguish between current operating expenditure and capital outlays. While the Treasury will cooperate in such a project, it warns that change-overs of this character cannot be effectively made until changes in the accounting systems have been worked out. The accounting problem, as your committee already knows, is being examined by the joint staffs of the General Accounting Office, Treasury Department, and the Bureau of the Budget. Developing further the importance of accounting in management, the Treasury letter emphasizes that any organization as large as the Federal Government must have sound accounting methods and systems to be effective in controlling and managing its affairs.

Recommendation No. 10 of the Hoover Commission, Budgeting and Accounting Report, proposes a new Accountant General in the Treasury to prescribe Department accounting procedures, which would be subject, however, to approval of the Comptroller General. The Treasury letter expresses the belief that this proposed division of authority would not be "in the public interest," and adds the following statement:

"The lines of authority with respect to accounting and auditing in the Federal Government are of highly controversial character. The experience of the Treasury indicates that the most fruitful results can be achieved only through cooperation by the various agencies interested in and concerned with accounting. Accounting is primarily a tool of administration, but, at the same time, is an important instrument for the control of the public funds through executive direction and independent audit. Having in mind the multiple purposes of accounting, the Comptroller General of the United States, the Secretary of the Treasury, and the Director of the Bureau of the Budget have formally agreed on the basic principles to be followed in a joint undertaking to improve the accounting and auditing system of the Government. This program has been under way for about a year."

The letter then cites the basic principles which have been evolved to serve as "the foundation upon which future accounting developments will rest."

The Treasury supports the Hoover Commission proposal (recommendation No. 11) that the practice of sending millions of expenditure vouchers and supporting papers to Washington be stopped as far as possible. The letter points out that the practice of submitting individual expenditure vouchers to Washington is an expensive and tedious way of auditing, which the Comptroller General indicates is being changed. The Secretary believes that the site audit of accounts is especially important and vigorously supports the adoption of it by the Federal Government, contending that the accounting function tells much more of the management of Federal business than the auditing of expenditure vouchers. "The Comptroller General," the Secretary concluded, "it may be stated, has been using the site audit with increasing frequency."

The next across-the-board Hoover Commission report—on personnel management—is endorsed by the Treasury Department as to individual recommendations. Thus, the letter supports, for example, recommendations that departments should have single responsible administrative heads, that they should have directors of personnel in their top management staffs, that the "rule of three" in the recruiting of Federal employees should be liberalized, and that greater emphasis should be placed on attracting first-rate young people to subordinate professional, scientific, technical, and administrative posts. The Treasury has some doubts, however, as to the following Hoover Commission proposal in the field of recruitment:

"Recommendation No. 6 proposes that the President should require all major departments and agencies to conduct vigorous recruiting programs for, and to examine and make final appointments of, all high-level administrative, professional, and technical positions peculiar to the agency and any other classes of positions which in the judgment of the Civil Service Commission seems to be striving for an improvement in the recruiting and appointing process but goes a good deal further and asks that the President require these improvements by Executive order. The Treasury Department agrees that the recruiting and appointing procedure needs to be reexamined but questions whether or not the Hoover Commission has hit upon the most effective way. Whether the President should or should not sign an Executive order, as the Hoover Commission proposes, is a question which the President, with his chosen advisers in this field, must decide. If the President should determine that this could be a staff function of the Civil Service Commission, then the same objective could be accomplished by Civil Service Commission directives rather than by the medium of an Executive order. As a matter of fact, it would seem that this goal has been partially achieved by the use of the so-called committees or boards of expert examiners."

The Treasury describes as "a new and interesting point of departure" which is entitled to a serious consideration, a Hoover Commission recommendation "that Congress enact a pay policy which will provide for maximum and minimum rates of pay with the general adjustment in between to be made by the executive branch." The Treasury Department foresees some difficult problems of a type with which it has already had some experience through its Wage Board procedure. It rates as "sound" the part of this proposal which "calls for greater authority to be delegated to the executive branch."

The Treasury letter disposes in a single, brief paragraph of the third and last across-the-board Hoover Commission report, on an Office of General Services. With reference to a General Services Agency, created by recently enacted legislation, the Treasury promises cooperation in setting up the new body. The letter points out that the Treasury supported the transfer of the Treasury Bureau of Federal Supply to the new Agency.

(The full text of the letter by the Secretary of the Treasury is available at the Office of the Senate Committee on Expenditures in the Executive Departments, room 357, Senate Office Building.)

HENRY P. IRR

Mr. O'CONOR. Mr. President, announcement recently of the resignation of Henry P. Irr, Baltimore Federal savings and loan executive, as chairman of the Maryland State Planning Commission, deserves more than passing interest in the field of government, particularly in this area.

Mr. Irr has served the people of Maryland in this important post for more than 4 years, and previously was active as a member of the commission. During this period he has given generously of his time and of his exceptional business and organizational abilities to supply a vital something which government on all levels unfortunately lacks.

That something is a "sense of distance," If I may so term it—a vision, and a sense of long-range planning, which the American system of government, with its ever-changing leadership, does not encourage, and indeed rarely encounters.

As a result of Mr. Irr's planning activities, Maryland State and local officials have a far better understanding of the problems facing them now and in the foreseeable future, together with a general or detailed program for meeting these problems. The commission's studies likewise have gone into the matter of implications of recent economic changes, for guidance of government in meeting and coping with the new problems thus raised.

It is, indeed, a fortunate thing for government that executives like Mr. Irr are to be found who are ready to devote their experience and energies to the solution of government's problems in the interest of all the people. Such men deserve the utmost recognition and gratitude, and it is in this spirit that I am bringing to the attention of the Senate the services rendered by Mr. Irr.

An editorial in the Baltimore Sun, commenting on Mr. Irr's resignation, states, and I quote:

> Maryland has lost a highly competent, trustworthy, and nonpolitical public servant at a spot where men of Mr. Irr's type are needed most.

I am convinced that all who are conversant with Mr. Irr's activities in the field of planning will concur heartily in this statement.

ISSUES OF THE 1950 CAMPAIGN

Mr. WILEY. Mr. President, I send to the desk a statement which I have prepared on the subject of America at the crossroads. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

COMMENTS BY SENATOR WILEY ON ISSUES IN 1950 CAMPAIGN

Thinking Americans throughout the Nation are preparing right now for their role

in the 1950 senatorial and House of Representatives elections. Sane, reasonable Americans in Wisconsin and every other State of the Union recognize that when Americans go to the polls in November, 1950, they will be deciding in effect down which road America will travel—the road of socialism, of collectivism, or the road of continuing free enterprise.

These are not just words. These are meaningful realities. Thinking Americans know that if in November 1950, Senators and Representatives who believe in free enterprise go down to defeat, then this Nation will be on its way toward complete socialism and a welfare state. The destiny of the American people for decades to come will be decided on the basis of whether or not free enterprise legislators are re-elected or are defeated in 1950.

ISSUES, NOT PERSONALITIES, ARE WHAT COUNT

This question is a matter of issues and not a matter of particular individuals or personalities. In other words, from the standpoint of the mere individuals involved and whether they are personally vindicated or not (that is, reelected or defeated), from that standpoint America is interested, but not vitally affected. No, my friends, this is a question of the liberty of the American people and not the success or failure of this or that Senator from Wisconsin, Ohio, Indiana, Missouri, South Dakota, Iowa, Kansas, or other States in the union.

In other words, what counts is that men who are dedicated to upholding this Republic should be reelected not as a personal tribute to themselves but rather in order to sustain this country and its Constitution.

ENEMIES OF AMERICA ARE ORGANIZING

Some folks in the country don't realize the danger in which we find ourselves. They don't realize that the enemies of America in our midst—the alien-minded leftists, the labor goon-squad boys, the parlor pinks, the Reds—are preparing right now for the crucial 1950 struggle. They are organizing precinct by precinct, ward by ward, shop by shop, plant by plant, town by town, city by city. They have formed their unholy alliance with a few labor big shots in order to take over this Government. They want to elect a Congress which will be subservient to a few racketeering labor leaders.

There is a chance that they may succeed in their insidious effort unless thinking Americans arouse themselves and prepare their own vigilant, grass-roots organization in order to awaken the American people. This isn't a matter for just talk. It will take organization, sweat, labor, contributions of time, yes, of money—pennies, nickels, dimes, dollars—if the free enterprise system is to be kept intact.

THE TIME TO ACT IS NOW

Although it is over a year and a quarter before the November election, any individual—laboring man, housewife, farmer, businessman—who wants to protect his beloved Nation should get in the fight now. He should contact like-minded individuals in his community, and together they should decide which candidates should be supported in the primary and in the general elections.

SCRUTINIZING CANDIDATES

Again, I repeat the candidates are not important as personalities or as individuals. The only thing that counts is what they stand for. All potential candidates should be scrutinized carefully from these standpoints:

(a) Do they believe in this constitutional Republic of checks and balances, or do they want to disintegrate the Republic by having the executive branch take over and make the Congress a mere rubber stamp for the President?

(b) Do they believe in sane fiscal policies or are they willing to raid the Treasury unscrupulously to support every sort of crackpot project in return for votes?

(c) Do they decide issues on the basis of their deepest convictions without taking orders from anyone or do they follow slavishly along lines dictated by a few big shots from any quarter?

I, for one, will do my part to help arouse my fellow citizens to their responsibility. I do so not for personal self-interest, not for the interest of any of my particular colleagues, but rather from the standpoint of the welfare of this Nation. My only aim is to make sure that this country remains free in fact—economically, politically, socially—so that our children and our children's children will enjoy the blessings that we enjoy.

I should like to conclude these comments by an imaginary news story. Let us visualize this, my friends, as coming along the press wires sometime in February 1951. It is not completely fanciful. On the contrary, there is grave danger that unless thinking Americans act courageously now, a press story such as this might someday be written.

Only you, the individual voter in Wisconsin, in Ohio, in Indiana, in New York, and elsewhere throughout our Nation, can make sure that such a news story as what follows will never come to pass:

A POSSIBLE NEWS STORY OF FEBRUARY 1951

"WASHINGTON, D. C.—Congress today passed a series of three emergency acts authorizing the President to take over virtually all segments of the national economy 'whenever he believes the national interests require that the people's affairs be made subject solely to executive orders.'

"In actions almost unprecedented in American history, the Senate and House completed action today on three 'must' bills which had been steam-rollered through the Congress by administration supporters giving the Chief Executive unparalleled powers over American industry, agriculture, and commerce.

"These emergency bills climaxed 4 weeks of an amazing first session of the Eighty-second Congress in which the legislators had given the President authority to proceed with a $60,000,000,000 budget—some 20,000,000,000 more than had been approved by the previous Congress. Simultaneously, the President has already signed into law an omnibus tax increase bill which will virtually confiscate all corporations', partnerships', and other business profits above a level deemed 'warranted' for any given industry by Bureau of Internal Revenue decision made in conjunction with so-called industry experts.

"Already being prepared in separate Senate and House committees are bills to nationalize America's insurance industry, to take over the banks, to consolidate all steel companies in a state monopoly, and to provide unprecedented state control of many other industries.

"Never before have Washington observers seen such feverish haste in a Congress in acceding to demands made by administration leaders. It was reported that a delegation of British Socialists will shortly be arriving in America in order to join in planning for further elimination of private enterprise in the American economy.

"Most Washington experts stated that it is extremely unlikely that any elements of the administration's Socialist program will be defeated in view of the unprecedented majorities which the administration commands in both the Senate and the House of Representatives. These majorities have been due in turn, observers say, to the fact that less than 35,000,000 Americans voted in the off-year congressional elections in November 1950. The sizable Socialist bloc in the House of Representatives and in the Senate has become the nucleus of control of both Chambers, even though it of itself does not command a majority but merely works in coalition with administration supporters."

ELIMINATION OF CERTAIN PREMIUM PAYMENTS IN THE PURCHASE OF GOVERNMENT ROYALTY OIL

The VICE PRESIDENT laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the amendment of the House the bill (S. 1647) to eliminate premium payments in the purchase of Government royalty oil under existing contracts entered into pursuant to the act of July 13, 1946 (60 Stat. 533), and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. O'MAHONEY. I move that the Senate insist upon its amendment, accede to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. O'MAHONEY, Mr. KERR, and Mr. CORDON conferees on the part of the Senate.

DELIVERED-PRICE SYSTEMS AND FREIGHT-ABSORPTION PRACTICES

Mr. LONG obtained the floor.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Louisiana [Mr. LONG] to reconsider the vote by which the motion of the Senator from Nevada [Mr. MCCARRAN] to send Senate bill 1008 to conference was agreed to.

Mr. LUCAS. Mr. President, it is my understanding that the Senator from Nevada [Mr. MCCARRAN], who is momentarily absent from the Senate, has no objection to the reconsideration of the vote. In view of that fact, I think perhaps we might save some time by debating directly the merits of the bill, rather than the motion to reconsider. I presume, however, that in connection with the motion, some of the merits of the bill will be debated.

If we could obtain an agreement to limit debate, I am wondering if that would influence the distinguished Senator from Louisiana in shortening the time for debate.

Mr. LONG. That would certainly reduce the amount of time required to debate the issue. I do not feel I am in a position to speak for other Senators in agreeing to limit debate. Several Senators who are interested in speaking on the subject are not present. One or two have actually prepared speeches. Personally, I would not agree to limit debate, although we might be able to conclude the debate during the time the Senator has in mind. I believe he is hopeful of concluding the debate today. I feel that is possible. However, I would not like to agree to limit other Senators, especially those who may not be present.

Mr. LUCAS. I appreciate what the Senator says, and I congratulate him upon his candid and frank answer. I also commend his statement that he feels we may be able to dispose of this question this afternoon. In other words, the question of reconsideration is more or less a perfunctory matter, as I understand.

Mr. O'CONOR. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. O'CONOR. Let me say in support of the position taken by the distinguished majority leaders that it is our desire to open the door as far as possible, hoping, of course, that we can conclude the debate and thus bring the question to a vote. I feel that I can speak for the Senator from Nevada in giving assurance to the Senator from Louisiana that if such an understanding as has been suggested could be reached, matters could be expedited.

Mr. LUCAS. I thank the Senator.

Mr. LONG. Mr. President, I ask unanimous consent to reconsider the vote whereby Senate bill 1008 was sent to conference.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. WHERRY. Am I correct in understanding that the Senator from Nevada would agree to such a unanimous-consent request?

Mr. LUCAS. Yes.

Mr. WHERRY. He is not in the Chamber.

Mr. LUCAS. He has made such a statement to the Senator from Illinois.

Mr. O'CONOR. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. O'CONOR. I beg to correct the statement of the Senator from Illinois. I did not mean to imply that the Senator from Nevada agreed to reconsider the vote by which the bill was sent to conference, but that if a unanimous-consent agreement were entered into for a vote later in the day, the entire matter might be debated on its merits.

Mr. LUCAS. I think the Senator from Maryland is correct. The Senator from Nevada is on his way, and if necessary we can interrupt the Senator from Louisiana.

Mr. LONG. Mr. President, I believe that this unanimous-consent request would merely remove one more complicating factor. There had been an agreement that no such motion as was made would be made without notice. Those of us who were interested did not have notice. The Senator from Tennessee [Mr. KEFAUVER] was in the Chamber at the time the motion was made. Senators are familiar with the low tone of voice of the Senator from Nevada. In the confusion which usually prevails during the morning hour, the Senator from Nevada moved that the bill be sent to conference. None of us who favored concurring in the House amendments had an opportunity to object.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. O'MAHONEY. Is it not a fact that the purpose of the Senator from Louisiana and other Senators is to have a discussion of the merits of the proposed legislation?

Mr. LONG. That is true.

Mr. O'MAHONEY. So that the minds of all Senators may be clarified as to the meaning and effect of the legislation.

Mr. LONG. That is exactly true.

Mr. O'MAHONEY. So whether or not the vote is actually and technically reconsidered is of small importance, provided we have the discussion. Is not that the fact?

Mr. LONG. That is true.

It is my intention, and the intention of other Senators interested, to discuss the subject for the benefit of the Senate. Whether it is done on the motion to reconsider or whether it is done on the merits is not important. I believe it would be better to discuss the bill on its merits, and have the vote on the merits.

Mr. O'MAHONEY. Inasmuch as the motion to reconsider is pending, and is debatable, the Senator from Louisiana and other Senators who are interested have ample opportunity to discuss it without prior disposition of the motion to reconsider.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. LUCAS. In reply to my distinguished friend from Wyoming, I certainly hope that this bill will be explained. I do not know of any other bill which has had so much confusion surrounding it. I will say frankly that had I known that the basing-point bill would take all the time it has taken in the Senate and in the House of Representatives, it would never have gotten off the calendar. But I was assured originally by my good friend from Pennsylvania [Mr. MYERS] that it was a moratorium bill, which would probably require a couple of hours. We have spent many days in connection with this bill, and it looks as though we are going to spend many more. Apparently there has been a great amount of misunderstanding and confusion as to what the basing-point bill means. I certainly hope it will now be thoroughly explained by those who are interested in it.

Mr. LONG. Mr. President, has my request been agreed to?

The VICE PRESIDENT. No; it has not.

Mr. LONG. Is there objection?

Mr. McCARRAN. Mr. President, what is the request?

The VICE PRESIDENT. The Senator from Louisiana, before beginning discussion of his motion to reconsider, had asked unanimous consent that the motion to reconsider the vote by which the bill was sent to conference be agreed to. Prior to that there had been some discussion, in which the Senator from Nevada was referred to as having said that he would have no objection to having the motion to reconsider agreed to.

Mr. McCARRAN. I made an offer to the able Senator from Louisiana that I would augment the conferees and add the name of the Senator from Wyoming as a conferee, if he would accept that position, if the bill could be sent to conference, which would dispose of the motion now pending. That is as far as I have gone. I think that is all I can be charged with having suggested.

The VICE PRESIDENT. The Senator from Louisiana has the floor.

Mr. LONG. Mr. President, I take it that at this time I am discussing the motion to reconsider.

The VICE PRESIDENT. That is the pending question.

Mr. LONG. As I have explained before, it was my understanding that I had an agreement with the senior Senator from Nevada [Mr. McCARRAN], the junior Senator from Tennessee [Mr. KEFAUVER]—and the junior Senator from Georgia [Mr. RUSSELL] was also a participant in the understanding—that before this bill was sent to conference, we would have an opportunity to be heard and to move to have the Senate concur in the House amendments.

I understood, because I heard the senior Senator from Nevada say to the junior Senator from Tennessee, "I will let you know when I will take this up," that that meant we would have actual verbal notice of the time when the motion would be made to send the bill to conference. I was waiting for it, and so was every other Senator who looked at this matter in the same way I did. But the Senator from Nevada made his motion, at a time when I was not on the floor, and at a time when there was considerable commotion on the floor. At that time, when the Presiding Officer was attempting to obtain order, and when some other Senator was whispering in the ear of the junior Senator from Georgia [Mr. RUSSELL], the motion to send the bill to conference was made and agreed to, without our realizing it. So we did not have an opportunity to explain this bill.

I am sure the Senator from Nevada feels that he acted in good faith, yet I was not on the floor at the time and did not have an opportunity to express the viewpoint of those of us interested in preserving the House amendments.

Of course, now that the motion has been made to reconsider the vote by which the Senate sent the bill to conference, we are placed in a disadvantageous position, for at any time a motion can be made to lay on the table the motion to reconsider, and that would have the effect, if agreed to, of cutting off debate on the House amendments.

On the other hand, if the motion to reconsider is agreed to, then we shall have an opportunity to move to concur in the House amendments.

So, Mr. President, the fact that at any time any Senator can obtain recognition, he can move to lay on the table the motion to reconsider the vote by which the bill was sent to conference, does give an advantage, and I feel it is an advantage which was obtained against our gentlemen's understanding.

Mr. TOBEY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. TOBEY. I wish to ask the Senator a question. He has made a study of this matter. The Senator from Illinois has voiced my feelings and expressed my ignorance of this matter, because I am very much confused, and so are some of my colleagues, regarding the situation in connection with this measure.

Is it the judgment of the Senator now speaking that if the House amendments were adopted to the final draft of the bill as passed by the Senate, that would be a material aid to small business?

Mr. LONG. I certainly think so; I think that the amendments proposed by Representative CARROLL and adopted by the House constitute a major improvement to Senate bill 1008. I know, from my own knowledge and from a reading of the press, that an effort will be made to sidetrack the House amendments and to go back to amendments much worse, in my opinion, or amendments which are not nearly as thorough.

The junior Senator from Tennessee [Mr. KEFAUVER] proposed certain amendments, when this bill was under consideration by the Senate. They were agreed to without objection. But the Senator from Tennessee had to draft his amendments hurriedly because the bill was going to be passed at any moment. There were several oversights in his amendments, which were caught by Representative CARROLL's amendments, when the bill was in the House of Representatives.

I feel that the Senate certainly should have an opportunity to concur in the amendments which were offered in the House by Representative CARROLL. I may say that the House committee agreed to strike the Kefauver amendments from the bill: I believe those or similar amendments are absolutely essential to protect small business. Yet when the bill reached the House floor, the Senator from Tennessee [Mr. KEFAUVER] sent a letter stating that his amendments were imperfect and needed perfecting; and Representative CARROLL offered amendments which would have the effect of perfecting the amendments of the Senator from Tennessee. After a long debate in the House of Representatives, the membership overrode the committee and accepted the amendments offered by Representative CARROLL.

I feel we should have the privilege on the floor of the Senate of concurring in those amendments before there is an opportunity for anyone to move to strike out the amendments again.

Mr. TOBEY. I thank the Senator.

Mr. McCARRAN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. McCARRAN. Inasmuch as inferentially, at least, some question of good faith has been raised, let me say to the Senate that this bill was first before the Committee on Interstate and Foreign Commerce. It was there made a subject of lengthy study and long hearings, as I am advised. While it was pending before the Committee on Commerce, I addressed a letter to the chairman of the Committee on Commerce, and suggested to him that the bill should have gone to the Committee on the Judiciary. The Senator from Colorado [Mr. JOHNSON], the chairman of the Committee on Interstate and Foreign Commerce, and I had a conference. At that conference it was agreed that when the Committee on Commerce disposed of the bill, it would report it, with a recommendation that it be referred to the Committee on the Judiciary. That was done.

The bill was referred to the Committee on the Judiciary, and a subcommittee of the Committee on the Judiciary was appointed to make a study of the bill. That study extended over several weeks, during which time hearings were held. My recollection is that the Senator from Colorado [Mr. JOHNSON], the chairman of the Committee on Interstate and Foreign Commerce, was present during some of the hearings. Outstanding representatives on the subject were heard by the Judiciary Committee.

Mr. LONG. Mr. President, I yielded only for a question to the Senator. I ask him to make his question reasonably brief.

Mr. McCARRAN. I shall make it exceedingly brief. I merely wish to show what the history of this bill is.

Then the subcommittee of the Judiciary Committee reported to the full committee, and we had extended considerations there. Finally we arrived at language which we reported to the Senate.

After the bill was on the Senate calendar for some time, my recollection is that it was called up by the Senator from Maryland [Mr. O'CONOR], who had charge of the bill. Then the Senator from Wyoming [Mr. O'MAHONEY] offered a substitute, which, in general, was finally adopted by the Senate and sent to the House, where it appears to have been amended.

When it came back to the Senate from the House of Representatives, I announced that I was going to move to have the bill sent to conference. I had a conference with the Senator from Louisiana [Mr. LONG] and, according to my recollection, the Senator from Georgia [Mr. RUSSELL]. I told them I wanted the bill to go to conference, that I did not think the language it contained was as it should be, and that it should be studied again.

That was not agreed to. I told the Senators that I would not move until they were on the floor or had knowledge of the motion.

It rested here for, I think, 2 or perhaps 3 weeks. I am not quite certain of the length of time.

Finally I saw the Senator from Tennessee [Mr. KEFAUVER] on the floor. I am quite certain I saw the Senator from Georgia [Mr. RUSSELL] on the floor, and I thought the Senator from Louisiana [Mr. LONG] was on the floor; but at least the first-mentioned two Senators who were interested in the bill were on the floor; and I made the motion, in open session of the Senate, to have the bill sent to conference; and I recommended the names of conferees to the Presiding Officer.

That is the history of the bill.

Mr. KEFAUVER. Mr. President, will the Senator yield?

Mr. LONG. I yield for a question only.

Mr. KEFAUVER. Mr. President, will the Senator yield for an observation and a question?

The VICE PRESIDENT. That may be done only by unanimous consent.

Mr. LONG. Mr. President, I ask unanimous consent that I may yield to the Senator from Tennessee for him to make an observation and to ask a question, without jeopardizing my right to the floor.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

Mr. KEFAUVER. Mr. President, the situation, as I remember it, was that on July 7, Senate bill 1008, with the Carroll amendments, passed the House of Representatives. The Senator from Louisiana [Mr. LONG] and others, including myself, had been very much interested in this proposed legislation. The bill came back to the Senate on the following day, July 8, and the Senator from Louisiana and I were present. Only four amendments were adopted by the House of Representatives.

On that occasion the Senator from Louisiana, and, as I remember, the Senator from Georgia [Mr. RUSSELL], and I asked the Senator from Nevada when the bill would be called up, and told him at that time that we wanted to move to have the Senate concur in the House amendments, that we did not want the bill to go to conference, because it has been reported in the press that the purpose of having it go to conference was not to adopt either the amendments which had been written into the bill in the Senate or the amendments which had been adopted in the House, but to take the unusual course of rewriting the measure.

The Senator from Nevada was on notice and understood that this matter could not be handled by unanimous consent, because we wanted to move to concur in the House amendments and to debate the matter. At that point the Senator from Nevada said he wanted the bill to go to conference, and he would notify us when he was going to call up the matter. So I was certain we had an understanding that we would be notified. He certainly knew it could not be done by unanimous consent in the morning hour, as lengthy debate would ensue.

Furthermore, as I recall, I had two other conversations with the Senator from Nevada, perhaps in the presence of the Senator from Louisiana, in which we inquired of the Senator from Nevada when he was going to call up the matter, stating to him we wanted to move to concur in the House amendments.

Mr. McCARRAN. At that time, did not the Senator say to me he wanted to be present?

Mr. KEFAUVER. No; the whole understanding, as I recall, was that we would be notified when the matter was going to be brought up. A few days before it was brought up the Senator from Louisiana and I were invited to a conference with the senior Senator from Wyoming in an effort to reach a meeting of minds and perhaps bring about a settlement of the matter. Certainly we had no idea the matter would be brought up until we brought that conference to a conclusion.

Mr. McCARRAN. Mr. President, I hope the Senator did not confuse the names of the Senator from Wyoming and the Senator from Nevada.

Mr. KEFAUVER. No. I am talking about the Senator from Wyoming.

Mr. McCARRAN. The Senator mentioned the Senator from Wyoming several times. The Senator had no conference with the Senator from Nevada.

Mr. KEFAUVER. No. We had a conference with the Senator from Wyoming.

Mr. McCARRAN. Very well.

Mr. KEFAUVER. We assumed of course that since he had filed the substitute measure, he was at least in consultation with the Senator from Nevada.

In the morning hour of the day in question, when there was considerable confusion in the Chamber, I was present in the Chamber. I was going to file a resolution on another matter. I was explaining the resolution to the Senator from Delaware [Mr. FREAR] at that point. I had no knowledge of the action of the Senator from Nevada, until someone asked me whether it was not the basing-point bill that had just been brought up. As I went to the desk to make inquiry, I met the Senator from Louisiana. He made his motion to reconsider. I am certain the Senator from Nevada and everyone else knew that we wanted to make our motion to concur in the House amendments, that we did not want the bill to go to conference, and that the matter would not be disposed of by unanimous consent. I felt perfectly satisfied that before the matter would be called up, pursuant to our agreement, if the Senator from Nevada was going to call it up, he would at least send notice to our offices, or say he was going to bring up the question.

So, Mr. President, we have not had an opportunity to present the question of concurring in the House amendments. This is a tremendously important matter affecting the economy of our Nation, particularly small business. It involves the whole basing-point issue. It involves the matter of whether section 2 of the Clayton Act and the Robinson-Patman Act shall be emasculated. It involves the question of whether section 5 of the Federal Trade Commission Act shall be amended so as to render it less protective of the interests of small business.

In order that every Senator may have his day in court and that the whole Senate may consider whether the House amendments should be concurred in, or whether the bill should be sent to conference, or what should be done with it, I certainly feel that the motion to reconsider should be agreed to.

Mr. LONG. Mr. President, I shall not further pursue the unanimous-consent request, but in order to set the record straight, I should like to state that in the first place it was my understanding we would be notified. As a matter of fact, I personally was waiting for the amendments to come before the Senate in order that I might move that they be concurred in.

I quote from a speech I made in the Senate on July 8.

> I read from page 2 of the Journal of Commerce of New York, the edition for Friday, July 8, 1949, this morning's paper:
>
> "Representative CELLER, who is sponsoring a drive to end the Robinson-Patman Act"—
>
> Perhaps Representative CELLER has not expressed that thought publicly, but at least the Journal of Commerce had it straight; the object is to end the Robinson-Patman Act.
>
> "Representative CELLER, who is sponsoring a drive to end the Robinson-Patman Act, was very dissatisfied with the House action in accepting the Carroll amendment.
>
> "'This will mean a continuation of the confusion which the bill was supposed to clear up,' which means it was supposed to eliminate the Robinson-Patman Act, he told the Journal of Commerce. 'However, I hope to have the wording of the Carroll amendment changed when the bill goes to conference.'
>
> "When it was suggested to Representative CELLER that he would be caught between the wording of the Kefauver and Carroll amendments in conference, he replied: 'Oh, not necessarily. A lot of things can happen in conference. I think we can straighten it out satisfactorily.'"

In closing that speech, I stated:

> I considered it a bad bill even as amended, but its subtly deceptive purpose of destroying the Robinson-Patman Act has been eliminated. I will vote to agree to the House amendment at the first opportunity, not because I believe it a good bill, but because I believe it is a complete disappointment to the great lobbies and powerful interests who are trying to overcome the effects of our antitrust laws, because I believe when they expected to reach into the coop and pull out a chicken they came out with a mere handful of feathers.
>
> I wish they had come out completely empty-handed; but I fear that a failure to dispose of S. 1008, while we have pulled most of the vicious monopolistic teeth from it, might yet give the vested interests of America a chance to deceive, mislead, or fool us into carrying out their carefully conceived designs.

Mr. KEFAUVER. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield.

Mr. KEFAUVER. I ask the Senator whether he does not remember, on July 8, the day following the passage of the bill in the House of Representatives, I made a statement on the floor pointing out what the Carroll amendments were, and stating I thought they were an improvement over the amendments offered by the junior Senator from Tennessee which had been written into the bill by the Senate, and that I expected to join the Senator from Louisiana in moving to concur in the House amendments? That statement is found at page 9089 of the RECORD.

Mr. LONG. I recall that. It clearly put the Senator from Tennessee as well as myself on record in favor of concurring in the House amendments when we had the opportunity to do so.

Mr. HILL. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator from Alabama for a question.

Mr. HILL. Is it not a fact that the House Judiciary Committee struck out the Kefauver amendments when it reported the bill to the House?

Mr. LONG. That is true.

Mr. HILL. Is it not a fact that Representative CELLER, to whom the distinguished Senator from Louisiana has referred as speaking of many things being fixed up in conference, will, as chairman of the House Judiciary Committee, name the House conferees, under the practice of the House, which is similar to our practice in the Senate, and will himself be the chairman of the House conferees?

Mr. LONG. That is exactly correct as I understand the rules.

Mr. President, this proposed legislation, in my opinion, is in violation of the platform pledges of both the Democratic and Republican Parties. It also would probably mean, if passed, the destruction of many small businesses in this country. I oppose this legislation because it would mean that the consumer would be continuously robbed by monopolistic practices. I oppose it because it would be a partial surrender to monopolistic forces that have successfully evaded the Sherman Antitrust Act for the 60 years since its enactment.

I, personally, was not a member of the platform committee of either major political party, and I did not have the honor or the privilege of attending the national conventions. However, I cannot but be impressed by the beautiful language claiming friendship and support of the cause of small business by both the Democratic and Republican conventions in the summer of 1948. From a reading of the platforms of these two great parties, it is very clear that each party was striving to outdo the other in avowing devotion to the cause of the small-business man of America. The Republican Convention was held first, and what did the Republican Convention have to say about small business? I quote from the Republican Party platform:

> Small business, the bulwark of American enterprise, must be encouraged through aggressive, antimonopoly action, elimination of unnecessary controls, protection against discrimination, correction of tax abuses, and limitation of competition by governmental organizations.

That is a very clear and forthright declaration, Mr. President, and certainly we must all agree that those were beautiful words if they meant anything.

What did the Democratic Convention adopt in the month of July 1948? I quote from the Democratic platform:

> We recognize the importance of small business and a sound American economy. It must be protected against unfair discrimination and monopolies, and be given equal opportunities with competing enterprises to expand its capital structure.
>
> We favor nondiscriminatory transportation charges and declare for the early correction of any inequalities in such charges.

Further along, Mr. President, we find these promising words of the Democratic Party platform:

> We pledge an intensive enforcement of the antitrust laws, with adequate appropriations.
>
> We advocate the strengthening of existing antitrust laws by closing the gaps which experience has shown have been used to promote the concentration of economic power. We pledge a positive program to promote competitive business and to foster the development of independent trade and commerce.

Mr. President, in view of such strong declaratory language it would seem that by this late date, we Democrats and Republicans would be combining our very best efforts in order to close the gaps in the antitrust laws.

Instead, what legislation have we passed for the protection of the small businesses of this country? What legislation have we passed to close the gap? None, whatsoever. Rather, Mr. President, we have before us the only bill that has been passed affecting small business at all, and what does this act do? To begin with, it has the effect of repealing the Robinson-Patman Act, if passed without the Carroll amendments. It would have the effect of slashing great loopholes in the Clayton Antitrust Act and in the Federal Trade Commission Act; and it would be a direct, inexcusable breach of faith of solemn pledges given the American public by both the Democratic and the Republican Parties.

Let us look at the purposes of Senate bill 1008 as it was originally introduced. Its purpose is to carry out the obvious design of the steel monopoly, the cement monopoly, the sugar trust, the paper trust, and the monopolistic organizations of twenty-odd industries in America. Its purpose is to legalize the basing-point system, which is nothing more nor less than a historic device to rob the American public by means of unreasonably high prices and unnecessary freight charges, and an arrangement to deny the public the benefit of price competition. When I say the public is denied the benefit of competition by means of the basing-point system, I refer to the fact that this system is a carefully planned scheme by which all competitors agree to charge the public identically the same price. They tell us that they are "meeting competition." Or that they have "perfect competition." Actually, they are merely agreeing that no one will reduce prices, and, regardless of how high our production may be, the public will be denied the benefit of more commodities at cheaper prices.

A personal example I can recall is that when my father undertook to build highways in the State of Louisiana, he found it was impossible to get price competition in order to gain substantial reductions in the prices of cement. He found that in order to reduce prices, it was necessary to obtain bids from Belgian firms. As everyone knows, transportation is one of the great costs in the production of cement, and yet, it was found in Louisiana, that it would be cheaper to ship cement all the way across the Atlantic Ocean than it would be to purchase it from price-fixing cartels in existence in the United States. Fortunately, or unfortunately, the availability of foreign competition made it possible to hold down at least to some slight degree the enormous, ridiculous prices the cement trust was charging for its product. However, Congress took care of that item and raised the tariff on cement 30 cents a barrel, as a result of which the State of Louisiana was compelled to pay an additional $1,000 per mile for the concrete that went into our thousands of miles of highways. In support of that statement, I refer to page 255 of Every Man a King, written by Huey P. Long.

There are many former governors in this body, Mr. President, and I am sure that all of them are well acquainted with the age-old practice of identical cement bids, no matter how many bidders are involved. Certainly, they realize the justice of protecting public interest from this age-old policy of monopolistic piracy.

In other words, Mr. President, 20 years ago, in 1929, notwithstanding the enormous productive capacity of the American cement industry, the price of cement was limited in my State only by the price at which it could be purchased from Belgium because of the complete monopolistic nature of the industry. This has been the experience of others, I am sure.

It is unfortunate that in the course of this debate, the parliamentary maneuvering and strategy of those in favor of legalizing the basing-point system has been such that those of us who have been opposing these efforts have not had the opportunity thoroughly to discuss or analyze these attempts for the benefit of the record and for the enlightenment of our colleagues. The legislative history of Senate bill 1008 is briefly this: A bill was introduced granting a 2-year moratorium on practices involving freight absorption. This moratorium was broad enough to legalize every basing-point practice previously in existence for a period of 2 years. After the hearings, the committee submitted a substitute bill on which no hearings had been held. But it was the sentiment of the majority of the Judiciary Committee that this bill was substantially better than the one submitted originally by the senior Senator from Pennsylvania [Mr. MYERS]. However, as the debate developed on the floor on the second day, another substitute was offered by the senior Senator from Wyoming [Mr. O'MAHONEY]. Some of us had high hopes that this new substitute would work in a manner to legalize justifiable freight-absorption practices and yet not legalize this vicious basing-point system. After a careful analysis, and after the advice of able antitrust attorneys and competent economists, many of us were disappointed to find that this bill was very little improvement over the other two bills. Again I say, this bill has not been debated; it has not been as carefully analyzed in the United States Senate as it has by the friends of American small business, and it has certainly not been considered by the friends of American small business, and it has certainly not been considered by the friends of the forgotten man, the American consumer, who would ultimately pay the high prices which this bill would make possible.

I digress here to say that the gasoline tax which every American has to pay is to a great extent measured by the cost of the construction of highways. If the cost of cement is high, the gasoline tax has to be higher. The same is likewise true with respect to the cost of steel and practically every other item going into the construction of homes.

For the benefit of those who may not understand this basing-point system, as well as its ramifications, let me briefly describe it.

The original basing-point system was the old Pittsburgh-plus steel system, where all steel prices were determined at the Pittsburgh mills, and the railroad freight from Pittsburgh to the point of destination, was added in order to arrive at the price which other steel mills were to charge. For example, there was a steel mill in Gary, Ind., selling in competition with the Pittsburgh mill. If the Gary mill was selling in its own locality, it charged the Pittsburgh price for steel plus the freight from Pittsburgh to Gary. This was known as phantom freight because it was freight that did not actually exist at all. If the Gary mill was shipping toward Pittsburgh, then the Gary mill reduced its price steadily the nearer its point of destination reached Pittsburgh. On the other hand, if the Gary mill was shipping to the west, then the Gary mill would add the freight from Gary westward, but it would not use a rate book of freight rates from Gary. Instead, it would use a book of freight rates from Pittsburgh in order that in competing with the Pittsburgh mill, the price would be idential to the consumer, and he would have no choice whatsoever, insofar as price competition was concerned.

After many years, the Federal Trade Commission successfully broke up this practice, which we might properly describe as a single basing-point system; and, thereafter, the steel monopoly adopted a multiple basing-point system. For example, the Birmingham mill was set up at a separate base, and in order to determine the steel prices in the area of Birmingham, all competitors would quote the Birmingham price plus the freight from Birmingham to the point of destination within that area, although they were shipping from some completely remote point. Thus, the basing-point system was preserved in a multiple basing-point form. In order to see that the great steel industry suffered no loss from price competition, the Birmingham mill charged a differential substantially higher for steel than the Pittsburgh mill, so that this highway robbery aimed especially against southern consumers could be continued.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. JOHNSON of Colorado. Will the Senator agree with me that there is not one word, syllable, phrase, sentence, or provision in Senate bill 1008 which authorizes or legalizes the charging of phantom freight? Will not the Senator agree with me that that is correct?

Mr. LONG. I agree to this extent: "It is not what you do; it is the way you do it." I can say to the Senator that under this bill everything can be done that the Pittsburgh-plus system permitted, and I propose to show that in the course of the debate.

Mr. GURNEY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. GURNEY. With reference to the charging of freight on steel from Pittsburgh, I should like to ask the Senator whether that is not the same system which was used in connection with petroleum from Tulsa, Okla.?

Mr. LONG. It is a similar system, although it varies somewhat. The Pittsburgh-plus system is the old basing-point system in every aspect. The oil-pricing system is a monopolistic system also, in my opinion, but it is what is known as a zone-pricing system. Within a certain State the price would be the same, and any differences in freight at any delivery point would be ignored. In my State, we pay 13 cents and 8 mills for each gallon of gas at the tank wagon. I believe that is also a monopolistic practice, but it is different, in its application, from the basing-point system.

Mr. GURNEY. Comparing those two plans, I may say that in South Dakota we have a sugar refinery. I am not well acquainted with the pricing system there, but it is my belief that it is based on the price of sugar at New Orleans—New Orleans-plus. We have a sugar refinery in the northwestern part of South Dakota, and they can sell their sugar there at a higher price than they can collect if they ship it down to the southeast corner of South Dakota. In other words, the producers of sugar, of petroleum, and of steel, all have their basing points in arriving at the prices of their commodities. Is that correct?

Mr. LONG. I would say that the sugar industry, especially so far as beet sugar is concerned, is at the moment organized, not by the farmers, but by the refineries, on a basing-point pricing system. There is no way in the world by which we can hold the petroleum pricing practice illegal, and legalize what the beet sugar people are doing.

The Senator from Colorado is very familiar with the fact that there are refineries in Colorado which are refining sugar and selling it on a San Francisco to Denver plus-freight basis. They import their cane sugar from Hawaii, and add the rail rate f. o. b. San Francisco into that area. The beet-sugar people match that price. If the beet-sugar people are selling in Denver, they sell at the highest conceivable price to their own local customers. When they ship toward San Francisco, not only do they absorb freight, they subtract freight. For example, when they sell beet sugar in San Francisco they subtract the amount of the freight from Denver to San Francisco, which is analagous to what Gary producers did when shipments were going in the direction of Pittsburgh. If we legalize that practice in a general statute, we can legalize the whole Pittsburgh-plus practice, and 60 years of anti-trust work will be thrown out the window when we legalize that by general statute.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator from Colorado.

Mr. JOHNSON of Colorado. Does not the Senator know that California is one of the largest producers of sugar beets in the Nation, and that Colorado producers do not ship sugar from Denver to San Francisco, or to any other California point?

Does not the Senator also know that the basing-point system is a misnomer, when the term is used with reference to the matter which is before the Senate at the present time? The basing-point system is not before us now. We have only part of the basing-point question before us, namely, freight absorption. That is the only part of the basing-point matter we have under consideration today in Senate bill 1008. The discussion of basing-point legislation contemplates not only freight absorption but the collection of phantom freight also.

This is not a basing-point bill at all, although it is called that by nearly everyone, very carelessly. This is a freight-absorption bill, which provides for freight absorption when it is done without people acting in bad faith. That is all the bill before us provides.

Mr. LONG. I would simply explain to the Senator—and it is very simple—that even in freight absorption everything that can be done is done under the Pittsburgh-plus practice. Let us assume that the Pittsburgh mill had the lowest price for steel in the Nation, and every other mill had a price which was approximately half the price of the Pittsburgh mill. Suppose the freight from Pittsburgh to Birmingham is added in making the Birmingham price. That is the Birmingham differential which the Federal Trade Commission finally managed to abolish. I believe that will be legalized again if this bill should be passed. The effect would be to make the Pittsburgh mill the base mill. If producers in Birmingham were shipping toward Pittsburgh, they would start absorbing the freight, and absorb it in a greater or less degree, and get the Pittsburgh price, with the ultimate effect that right up to the Pittsburgh area they would be agreeing to sell at the Pittsburgh price. They can do that independently. That is the beauty of the bill. Once the bill is in effect, no further basis is needed. They can independently match the Pittsburgh price if they want to.

Mr. HUNT. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HUNT. May I make an observation followed by a question?

Mr. LONG. I wish the Senator would limit himself to a question and make his remarks in his own time, if he would care to make any, in view of the fact that I should like to conclude my speech sometime today, and I have covered only a small part of what I have prepared.

Mr. HUNT. I can word it so that it will be a question. Does the Senator know that in the Rocky Mountain area—and I will speak specifically of my own State—we produce a tremendous amount of sugar beets and consume only 5 percent of our production? We have five large sugar mills. Thousands of acres of our land are under irrigation and are utilized for sugar-beet production.

The "campaigns," so-called, of the sugar mills employ several thousand people for several months. So sugar-beet production and refining in the State of Wyoming are tremendously important to our economy, as well as to the economy of the whole Rocky Mountain area.

Consuming, as we do, only 5 percent of our production, we are faced with one of two alternatives, placing that sugar in wholesale areas, Minneapolis, St. Louis, and Chicago, at a price at which we can compete with Michigan sugar-beet production, at a price at which we can compete with the Louisiana cane sugar, or at a price at which we can compete with offshore sugar. If we do not have the privilege of doing that, and if the Supreme Court decision stands as it is, without corrective legislation, the economy of my State will be entirely disrupted. Does the Senator think that is helping small business?

Mr. LONG. It might take a few more words than "yes" or "no" to answer, but I believe the Senator and his senior colleague understand that it is perfectly all right to absorb freight today; it is all right to absorb as much as one desires to absorb. A producer can discriminate in his price any way he wants to so long as he does not violate the law. He will bump into the Sherman Act if he is in a conspiracy not to give the public the benefit of competitive prices, or if he agrees with someone else on a price and is not going to compete at all. If it can be proved he is doing that, undoubtedly that practice can be restrained. I do not believe the sugar-beet people need worry that it will put them out of business.

On the other hand, there is the Clayton Act, the Robinson-Patman Act, and the Federal Trade Commission Act, all of which add up to this: That a producer cannot discriminate in price if the effect of the discrimination is to eliminate competition, which is the same thing as arriving at identically the same price. If it is to eliminate competition, if it is to prevent competition, if it is to keep someone from getting into business, or if it is to harm or injure or reduce competition, if it has one of those effects, the discrimination can be restrained by the Federal Trade Commission.

Mr. HUNT. Mr. President, will the Senator yield for another question?

Mr. LONG. I am happy to yield.

Mr. HUNT. Does the Senator understand that by the second of the Supreme Court decisions, if a sugar-beet producer of Wyoming, never having any contract or any agreement, not even knowing what other sugar producers in other parts of the Nation have in mind, absorbed freight and happened to sell his sugar in Chicago at the same price as in the local area, then, under this decision, he would be conspiring to violate the law? Even without any agreement or understanding he would be considered as so doing.

Mr. LONG. If the Senator will be so kind as to listen to my remarks, I believe he will become convinced, during the course of them, that there is not the slightest possibility that a sugar producer in the State of Wyoming, independently and in good faith selling his own sugar, is in the least danger, no matter what practices he may resort to in order to meet competition. I believe I can convince the Senator that what we are endeavoring to do is to get at conspirators who are not acting independently, but what they do, though almost impossible to prove, is not done independently.

Mr. HUNT. Mr. President, will the Senator yield for one more question?

Mr. LONG. I yield.

Mr. HUNT. I realize that the Senator is, by the position he is taking, attempting to help small business, but does the

Senator know that the larger corporations, which have reserves and which have factories throughout the United States, can build warehouses wherever they may please, and sell direct at wholesale, charging only the freight from the warehouse? My point is this: A small company, without reserves, without factories all over the United States, which cannot build additional warehouses, simply cannot compete with such large companies, so the result is simply to put the little fellow out of business.

I should like to make one more observation.

Mr. LONG. Mr. President, I should like to answer the Senator's question before he proceeds further. I should like to say that so far this question has been limited to sugar production. I wish to say to the Senator that I believe his State is a producer of sugar beets only. It does not produce sugarcane. My State produces five or six times as much sugar as is produced in the Senator's State. In this country sugar is nothing more than a subsidized industry in our economy. If we were to let down our tariff barriers, and permit introduction, without application of tariff, to Puerto Rican and Hawaiian quotas, the sugar producers of the United States would be put out of business tomorrow.

I should say further, that subsidized as the sugarcane industry of my State is, it has one of the lowest standards of wages of any industry in this country, and it is threatened by the adoption of a minimum-wage law. Ultimately what the Government must do is to subsidize the sugar industry sufficiently so that it can operate within the antitrust laws, and at a sufficient profit to enable it to pay a decent living wage. It is a much greater problem for my State, which produces enormously more sugar, than for the State of Wyoming. But, simply in order to enable the sugar producers of my State or the sugar producers of the State of Wyoming to rob the public of an additional half a cent a pound on their sugar prices, I will not, in order to justify such practices, let the big corporations rob all the consumers of America.

Furthermore, after the large refineries have conspired together as to what the sugar prices shall be, they conspire to hold the competing sugarcane and sugar-beet prices down, and they will say what the producer is going to get for his beets and cane at the mill.

Mr. HUNT. Mr. President, will the Senator again yield?

Mr. LONG. I yield.

Mr. HUNT. Conditions in Louisiana are not at all similar to the conditions in Wyoming. Louisiana has a population large enough to consume a great percent of her production of sugar. We do not have a population sufficiently large to consume much of our production of sugar.

Mr. LONG. I will say to the Senator from Wyoming that our production far exceeds our consumption.

Mr. HUNT. Will the Senator yield once more, and then I will not interrupt him further?

Mr. LONG. I yield.

Mr. HUNT. I realize that the Senator's objective is to be helpful to small business. Does the Senator understand that, under the Supreme Court decision, the huge grocery chains can transport in their own transportation facilities, in their own trucks, and absorb all that freight? If they transport by common carrier they cannot absorb the freight. The huge grocery chains can filter out from any central point in the United States in their own carriers and sell from their own warehouses, and can absorb the freight from the point of manufacture to the point of consumption.

Mr. LONG. If the Senator feels that way about it, I wonder if he would be so kind at his leisure to read the hearings held by a Select Committee on Small Business in the House of Representatives, and learn of the objections of small business to basing point legislation, particularly their objections to Senate bill 1008. If the Senator would look at the objections made by the National Association of Small Business to Senate bill 1008, if the Senator would look at the objections made by the National Association of Petroleum Retailers, the objections made by the retail druggists, if he would look at the objections of the United States Wholesale Grocers Association, of the Associated Retail Bakers of America, of the National Candy Wholesalers, Inc., I think he would agree with me that Senate bill 1008 would be very harmful to small business. Every one of those organizations said it would be.

Mr. HUNT. Does not the Senator know that many of the organizations whose names he has just read certainly must be huge corporations and not small businesses?

Mr. LONG. They are entirely associations of small businesses who contribute $1 or $2 or some small fee to have some type of representation. If the Senator will check he will find that the Petroleum Association represents 200 retail petroleum dealers in the city of Detroit who are fighting the Standard Oil Co., which is trying to ruin them by discriminatory pricing.

If the Senator will study the speech I am about to make, in which I shall try to set forth these points, he will, I am sure, agree with me that the Robinson-Patman Act was the best law yet enacted for the protection of small-business people, and that Senate bill 1008, without the Carroll amendment, would have the effect of circumventing and destroying much of the Robinson-Patman Act. In other words, prior to the Robinson-Patman Act the A & P might obtain a discount of 30 percent from Del Monte, from whom they might be buying groceries, by reason of the enormous buying power of A & P. On the other hand the small independent grocer right across the street from the A & P could not obtain such discount. Then the independent grocer would say that the Clayton Act was supposed to protect him against discrimination. The parties would go to court and the A & P and Del Monte would win the case because they would assert, "We made this discrimination in good faith in order to meet competition." "If we had not done so," Del Monte would contend, "Heinz would have done it, and Del Monte would not have received the business at all."

If Senate bill 1008 is passed without the Carroll amendment, I believe such discriminations can again be made. If we are unable to have the Carroll amendment adopted as part of the bill, in my opinion, and in the opinion of very able attorneys with whom I have consulted, the result will be to permit the giant concerns to make successfully the defense that they are, by their practices, endeavoring to meet competition, in good faith, but the result will be to run the little fellows out of business.

Mr. O'CONOR. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. O'CONOR. Does not the Senator feel that the very language of the bill introduced by the distinguished senior Senator from Wyoming [Mr. O'MAHONEY] contains the safeguards to provide against the happening of the very thing the Senator is apprehensive of, namely, conspiratorial or collusive discrimination? In answer to a question asked by the junior Senator from Wyoming, the Senator from Louisiana agreed that freight absorption is permissible and justifiable providing there is no conspiracy or combination?

Mr. LONG. Or providing there is not a discrimination of the nature prohibited by the Clayton Act or by the Federal Trade Commission Act.

Mr. O'CONOR. I should like to invite the Senator's attention to certain language of the bill—I know he has read it—and ask the benefit of the Senator's judgment on it. I read the following language from the bill introduced by the senior Senator from Wyoming [Mr. O'MAHONEY]:

> *Provided*, That this shall not make lawful any combination, conspiracy, or collusive agreement; or any monopolistic, oppressive, deceptive, or fraudulent practice, carried out by or involving the use of delivered prices or freight absorption.

Does not the Senator feel that that language is all-inclusive?

Mr. LONG. I regret the Senator's question for only one reason, and that is because he is getting ahead of me in my speech. I would say that the language just read is the language of the Sherman Act, and if a saving clause were inserted, which would say that we are not and do not by any means intend to repeal the old Sherman Antitrust Act, that we are going back to that 60-year old act and stand on it, I would say that would have the same effect as the language we have here. I cite in support of my position, the author of what I believe to be one of the most thorough books ever written on this issue: The Basing Point System, by Dr. Machlup, who wrote a letter which will be found in the hearings, in which he takes the same position I do. Walter Wooden, an attorney for the Federal Trade Commission, takes the same position. I have been so advised by him.

I again refer to my analysis of the basing-point system somewhat in historical retrospect.

After some period of time, the Federal Trade Commission successfully proved that there was no basis for the Birmingham differential, and that the

price of steel in that area should properly be based more on the cost of producing steel in Birmingham, rather than to maintain steel prices in line with Pittsburgh cost plus the rail freight from Pittsburgh. Eventually, the Pittsburgh-plus system, having been abolished by the abolition of the Birmingham differential, as well as the abolition of certain other differentials in other areas, was eliminated. Now, it is true that Pittsburgh enjoyed the benefit of water transportation, and much of the steel that is shipped in America can be shipped by water at great savings in freight. However, it was found by the steel trust that savings of water transportation unduly complicated matters in arriving at identical prices, so in order to deny the public the benefit of price competition all prices were figured on rail transportation.

Thus, a few years ago, an odd situation occurred. The southern railroads were anxious to meet water competition and to lower their rail rates on steel shipped from Birmingham to Mississippi River ports. This was because there was immediate prospect of water transportation at reduced rates for steel shipped from Birmingham. The northern steel industry was alarmed about this situation because these people were shipping into New Orleans and Memphis by water, although they were charging the price based on Birmingham charges plus rail freight rates from Birmingham to the point of destination. Therefore, acting through the American Association of Railroads with their interconnecting directorships, they were able to put pressure on the Southern Association of Railroads to keep southern freight rates high, and to prevent southern freight rates from being reduced, for example, by $3 per ton of steel from Birmingham to New Orleans because, as one of their executives pointed out, they would have to meet the competition by reducing their rates from the eastern steel mills for delivery into New Orleans. Thereby, the Birmingham rate would make them no additional money, and, as he concluded, "about the only ones that will benefit by this reduction will be the consuming trade." As authority for that statement I refer to plaintiff's trial brief for the court, part II, civil No. 246, in the District Court of the United States for the Distric of Nebraska, Lincoln Division, United States of America, plaintiff against The Association of American Railroads, the Western Association of Railway Executives, et al., defendants, page 704. Thus, since 1940, all consumers of steel in New Orleans and at other Mississippi River and Gulf points have been paying an extra $3 per ton tribute to this same basing-point system.

The cement industry followed the same general pattern. This industry was organized by the American Steel Co.; and as early as 1902 these same companies were at work putting the same monopolistic practices into effect in that industry.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. McCARTHY. I understand that the Senator's motion is merely to have the bill brought back to the Senate floor without being sent to conference. Am I correct in saying that a vote for the Senator's motion does not necessarily express an opinion on the House amendments? Is it not merely a vote to allow the bill to be brought back so that the Senator can make his next motion, in order that we may vote on the merits of the House amendments?

Mr. LONG. That is correct.

Mr. McCARTHY. In order that I may be doubly clear, a vote in favor of the Senator's motion is merely a vote to allow the Senator from Louisiana and other Senators who feel as he does to argue the merits of the House amendments in connection with the next motion which the Senator will make.

Mr. LONG. That is correct.

Mr. TOBEY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. TOBEY. Let me put it in these terms: If the Senator's motion should prevail, the status of the basing-point legislation passed by the Senate some time ago would be exactly the same as it was then. In other words, it passed the Senate and went to the House, and the House made certain amendments. What the Senator wishes to do is to give the Senate the right to vote de novo upon the question whether the bill shall go to conference, or whether the Senate shall concur in the House amendments.

Mr. LONG. That is one of the main things I have in mind in obtaining reconsideration. I should like to move to accept certain of the House amendments, rather than permit the conferees to throw the amendments out without the Senate having an opportunity to vote on them.

I hope the Senate will study the logic of my argument and consider it. To get a little background on the basing-point system, I should like to refer to a very recent—and very excellent—work on this subject by Dr. Fritz Machlup. Reading from the frontispiece of his book, I see that Dr. Machlup was born and educated in Austria, came to the United States in 1933, and became a naturalized citizen in 1940. He has been a businessman, government official, and educator, and is the author of nine books which have been published in German, French, and English.

Dr. Machlup was a research fellow, Rockefeller Foundation, 1933–35; and the Frank H. Goodyear professor of economics at the University of Buffalo, 1935–37. He now holds the Abram C. Hutzler chair at Johns Hopkins University and has been visiting professor and special lecturer at American, California, Columbia, Cornell, Harvard, Michigan, Northwestern, and Stanford Universities. During the war he was Chief, Division of Research and Statistics, Office of Alien Property Custodian, Washington, D. C.

Dr. Machlup is a member of the Royal Economic Society, the Econometric Society, the American Association of University Professors, Phi Beta Kappa, and the American Economic Association, on whose board of editors he served from 1938 to 1941 and was acting manager, 1944–45. Later in this debate, I expect to quote from other authorities on economics with the same high qualifications.

For a brief résumé of basing-point history, I quote from Dr. Machlup's book, The Basing-Point System, page 47. He says:

> Business invented the basing-point system around 1880 and has used it continually and in increasing measure since 1902. For 40 years no lawyer had to decide about its legality, no economist had to speculate about its effect—because neither lawyers nor economists knew anything about the new pricing system ingenious businessmen had invented and perfected. Around 1920, the lawyers began to be concerned with the matter; the hardwood lumber and cement cases before the courts and the steel case before the Federal Trade Commission called for legal analysis of the monopolistic nature of basing-point pricing. Not long afterward, the economists were brought in as experts to evaluate the nature and effect of the system.

I now refer to page 45 of Dr. Machlup's book for a brief, chronological résumé of the efforts of the American Government to break up this monopolistic device. I refer to the matter under the heading "The court calendar, 1890–1948." I digress here to mention that the reason Dr. Machlup begins with 1890 is that that was the year in which the Sherman antitrust law was passed. I understand that a court in one of the Western States has recently declared that the basing-point system was illegal under the Sherman Antitrust Act. That decision should have been made 60 years ago, because in my opinion there is no doubt that the basing-point system is nothing more nor less than a monopolistic price-fixing device. The reason it has so long successfully evaded the law has been that there has been great difficulty in obtaining the tangible evidence of what has been going on. I quote from Dr. Machlup's book, page 45:

> The Government did not find out about the use of the basing-point system until approximately 1920. Hence, during the first 30 years after the enactment of the Sherman law, no action was brought about with direct reference to basing-point pricing. Two cases between 1910 and 1920 involved cement and steel, the two most important basing-point industries, but their pricing practices were not understood at that time, and only later did the Government begin to realize the significance of these practices for the issues in question.
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> 1910: In *United States* v. *Association of Licensed Cement Manufacturers*, district court disallows bogus patents which had been licensed to cement companies under the condition that the pricing scheme of the industry be observed.
>
> 1912: In *Association of Licensed Cement Manufacturers* v. *United States*, Circuit Court of Appeals confirms disallowance of cement patents and orders dissolution of cement association.
>
> 1915: In *United States* v. *U. S. Steel Corporation*, Circuit Court of Appeals refuses to dissolve the company as requested by the Government in an antitrust suit instituted in 1910, and finds that the steel industry was "competitive and uncontrolled."

I pause here to say, Mr. President, that if the prefix "un" had been shifted from the word "uncontrolled" to the word

"competitive," the court would have arrived at exactly the right conclusion. As it was, the court's decision at that time, looking back upon it historically, was absolutely farcical. In other words, if the court had said that the steel industry was controlled and uncompetitive it would have actually hit the nail on the head at that time. Today we know the facts. I continue the quotation from Dr. Machlup's book:

1920: In *United States* v. *U. S. Steel Corporation,* Supreme Court sustains lower court in rejecting charges of monopoly through merger. (The Government had failed to charge price-fixing combination.)

1921: Federal Trade Commission issues complaint against United States Steel Corp. for using the basing-point system.

1944: In *A. E. Staley Manufacturing Company* v. *Federal Trade Commission,* circuit court of appeals, declaring that company's use of the basing-point system was lawful discrimination to meet competition in good faith, sets aside the Federal Trade Commission order.

1945: In *Corn Products Refining Co.* v. *Federal Trade Commission,* Supreme Court, declaring the system to be unlawful discrimination, confirms the Federal Trade Commission order.

1945: In *Federal Trade Commission* v. *A. E. Staley Manufacturing Company,* Supreme Court, declaring that system is not lawful discrimination to meet competition in good faith, reverses lower court and confirms Federal Trade Commission order.

1946: United States Steel Corp. narrows the issues in its appeal against the 1924 order of the Federal Trade Commission pending in the circuit court of appeals since 1938.

1946: In *Aetna Portland Cement Company* v. *Federal Trade Commission,* circuit court of appeals, declaring that basing-point pricing in cement was neither unlawful discrimination nor unfair competition, sets aside the Federal Trade Commission order of 1943.

1947: Federal Trade Commission issues complaint against the 101 steel companies using the basing-point system.

1948: In *Triangle Conduit & Cable Co.* v. *Federal Trade Commission,* Circuit Court of Appeals, declaring that the individual use of the basing-point method with the knowledge that competitors also use it is unfair competition and unlawful discrimination, confirms Federal Trade Commission cease-and-desist order against manufacturers of rigid steel conduit.

1948: U. S. Steel Corp. accepts consent decree in appeal pending since 1938 in Circuit Court, confirming Federal Trade Commission order of 1924.

1921: In *Hardwood Lumber Assn.* v. *United States,* Supreme Court decides that certain trade-association practices (connected with basing-point pricing) are unlawful combination in restraint of trade.

1923: In *United States* v. *Cement Manufacturers Protective Assn.,* district court condemns similar trade association practices (connected with basing-point pricing) as unlawful combination in restraint of trade.

1924: Federal Trade Commission issues cease-and-desist order against U. S. Steel Corp.'s use of basing-point system.

1925: In *Cement Manufacturers Protective Assn.* v. *United States,* the Supreme Court reverses lower court decision against basing-point pricing in cement. (The Government had failed to charge collusive actions.)

1932: In *United States* v. *Corn Derivatives Institute,* the corn products companies accept consent decree dissolving the trade association and enjoining them from continuing the pricing scheme.

1937: Federal Trade Commission issues complaint against 74 cement companies for using the basing-point system.

1938: U. S. Steel Corp. appeals to circuit court to set aside the Federal Trade Commission order of 1924.

1938–39: Federal Trade Commission issues complaints against 11 corn products companies for using the basing-point system.

1940–42: Federal Trade Commission orders corn products companies to cease and desist from using basing-point system.

1943: Federal Trade Commission orders cement companies to cease and desist from using basing-point system.

1944: In *Corn Products Refining Co.* v. *Federal Trade Commission,* circuit court of appeals, declaring the basing-point pricing scheme as unlawful discrimination, confirms the Federal Trade Commission order.

Mr. President, there you have only a partial résumé of the many cases fought during the last 30 years in the effort to break up this monopolistic practice. There you have a history of expensive litigation running into millions of dollars, at the expense of the Federal Government, in the effort to break up this practice which has been from day to day and from year to year in violation of the law, taking hundreds of millions of dollars out of the pockets of the American consumers. There you have the very heart of the battle against the American monopolies. There you have a war against monopolies, a campaign in which, in battle after battle, for 30 years, the Government has been unrelenting in its efforts which culminated in vital success in the Cement Institute decision in 1948.

Why do we have Senate bill 1008 before us today? It is because the Government finally won the Cement Institute case. Up until that time this basing-point device was the No. 1 instrument used by the great monopolies of America to perpetuate their stranglehold on American economy.

So let us stop talking about absorbing freight. Absorbing freight as such is not the issue here today. It is only a misleading, pretty name for a very vicious monopolistic device. There is no prohibition of freight absorption where it is not used as a device to further a monopolistic practice.

Mr. MALONE. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. HOEY in the chair). Does the Senator from Louisiana yield to the Senator from Nevada?

Mr. LONG. I yield for a question.

Mr. MALONE. Will the Senator explain further at this point how the monopoly is furthered or would be furthered by a continuation of the practice which would be allowed by means of the enactment of this bill? I may say that I have not made up my mind about the bill, and I need further information.

In other words, if the cement companies, or the steel companies, or any other companies are able to absorb the freight in one area, will that have a tendency to stifle competition in another area in certain ways? Will the Senator go into that matter in a little more detail?

Mr. LONG. I shall be happy to explain it, or at least to attempt to explain it, to the Senator's satisfaction.

This basing-point pricing system is not used in an effort to compete, the actual purpose is to prevent competition. I am sure the Senator from Nevada, knowing something about construction, is familiar with the identical bids of the cement companies. In other words, regardless of how close a producer of cement may be to the point of consumption or whether he may be the logical producer to supply the cement to a certain consumption point, his bid is identical with the bids of all other cement manufacturers, even those who might be a thousand miles away, and even though for the more distant producers of cement the freight might be a tremendous item.

I was called on by some of the cement producers in connection with this legislation, and they asked me to withraw from my position, because they said that this system enables them to compete, as they call it, in supplying cement at any point, regardless of whether some of the cement producers are located at places much more distant from the points of consumption than are other producers. Of course their ordinary practice is to have a means of arriving at the cost of production, and then to add the freight from a given base point. If they can follow a price leader, someone who is the greatest producer in the Nation—for instance, such as United States Steel—then they can merely look in the Wall Street Journal and see what his price is, and then can pick out from the rate book the rate from Pittsburgh to the destination, and thus arrive at the price, which in every case is identical with the prices of all other producers.

If the Senator were going to build something that did not require the use of steel or cement, the chances are he might get at least several competitive bids. But, unfortunately, when all producers quote the same fixed price plus the delivery charge from an agreed base point, there is no difference between the bids. That is the system which the United States Supreme Court set aside from a legal point of view in the Cement Institute case.

But here we have someone saying, "Let us let these people legalize the freight absorption practice, if the freight absorption is done independently and done in good faith to meet competition."

Of course I contend that it is an evidence of the fact that there is no competition when there are 50 sealed bids, all identical. There is no competition, because all the bids are the same. Yet it is contended that that is price competition, although all of them bid the same price, down to the fifth decimal point. I believe the Senator from Nevada will agree with me that there is no competition when there are such identical bids.

Mr. MALONE. Mr. President, will the Senator yield for a further question?

Mr. LONG. I yield.

Mr. MALONE. What would prevent a new company from engaging in the cement business, supplying cement from, let us say, a rather isolated area, which perhaps would be closer to a certain consuming area than other cement manufacturers or producers would be? Thus the new manufacturer would be able to charge lower freight rates. What would prevent that?

Mr. LONG. Nothing would prevent it. Of course, an enormous amount of capital investment is required for a company going into that business. If a new company entered the business and if the operators of the company did not want to fall into the basing-point pricing system, there would be nothing to prevent their competitors from agreeing that they would absorb the freight into that area and possibly forcing the new company out of business.

Mr. MALONE. Mr. President, will the Senator yield further?

Mr. LONG. I yield.

Mr. MALONE. The senior Senator from Nevada recalls that about 20 years ago a fight had been going on for several years, at that time, in regard to what was known then as the back-haul rate. It went on in Congress for many years, much like the basing-point rate fight.

The back-haul practice was simply an attempt to meet water competition. I was a member of the Nevada Public Service Commission at that time, and it was necessary that we keep track of that situation. Those who were engaging in that practice would meet the rates, but the back-haul rate would be added—as, for instance, in the case of a shipment from Reno to Salt Lake City, or from here to San Francisco. The back-haul rate would be added to that particular rate. That prevented the intermountain States from doing any business in brokerage or anything of that sort at all.

That fight was finally won on the Senate floor, and it was the intermountain Senators, I think, who finally won it. Does this add up to approximately the same thing, in another manner, namely, that to prevent competition the existing companies could absorb the freight; that is, any company, whether a cement company or a company engaged in any other line of business, could absorb the freight into the area, where this new business was being considered, and perhaps to a point that would prevent any other business being established there on an economic basis? Would that be possible, in about that manner?

Mr. LONG. Of course, that certainly could be done. Of course that is one of the reasons why we should try to save the Carroll amendments. The Senator knows the freight can be absorbed today, under the law, unless restrained by some provision of the antitrust laws. It cannot be absorbed if there is collusion, or if the party is in a monopolistic combination with some other group of companies. The Sherman Antitrust law would prevent that. Freight cannot be absorbed if its effect would be a discrimination in violation of the Federal Trade Commission Act or in violation of the Clayton Act, as amended by the Robinson-Patman Act.

In other words, let us assume the Lone Star Steel Co. goes into business at Daingerfield, Tex. United States and Bethlehem would like to put the Lone Star Steel Co. out of business, so they absorb all freight and they sell their steel in the immediate area around Shreveport, Little Rock, Dallas, and all those areas, to match the price of the Daingerfield company, the Lone Star Steel Co., at that point. They could under this act, without the Carroll amendments, go to the extent of absorbing all freight. If they have been in business longer, they would have quantity production and a well-established, well-organized mill. The chances are, if they absorbed all the freight, they would be selling far below their delivered cost, and yet they could discriminate in price to that extent and run the other firm out of business, upon the ground they were meeting competition in good faith. With the Carroll amendments included in the bill, they could not do that, because, although the freight could be absorbed, it could not be done if the effect of it would be to destroy or prevent or eliminate competition; that would be prohibited.

Of course it is possible under the law as it stands today for anyone to absorb freight to whatever point it may be necessary in order to meet competition, or to get his fair share of the business, where he sees someone is competing with him in a distant market. Once again we come to the question of the effect. If the effect is to prevent, eliminate, or reduce competition, then it is prohibited by the Clayton Act and by the Federal Trade Commission Act. Those are the acts which Senate bill 1008 proposes to amend, so that one can go ahead and absorb freight, unless it can be proved that he is in a conspiracy, we might say, under the Sherman Act.

Mr. KEFAUVER. Mr. President, if the Senator will yield, while he is so ably discussing the matter of good faith, that is to say, selling in good faith to meet competition, I should like to call his attention to a practice which would be permitted if the Carroll amendments were not included, that is, of a concern itself creating the conditions so that it sells in good faith to meet its own competitution. That is what happened in the Standard Oil case. In other words the Standard Oil Co. itself brought about a condititon with its wholesalers whereby it was selling in competition to meet their competition. That of course is a very unlawful and reprehensible kind of practice, but it would be permitted under this bill unless the Carroll amendments are adopted.

Mr. LONG. I am sure the Senator is thinking about the Standard Oil Co. of Indiana case. The Standard Oil Co. of Indiana owned 200 stations, yet it discriminated against their own company-owned stations; letting certain dealers have gasoline which they sold at their pumps 2 cents cheaper than the Standard Oil Co.'s own stations, for the purpose of so depressing the gasoline business in Detroit that it would be able to buy what few independent stations were left at a sacrifice mortgage sale. That would be about the effect of that practice.

Mr. KEFAUVER. Yes. They then had the audacity to say they were not violating section 2 of the Clayton Act, because they were selling in good faith to meet competition. But they were selling in good faith to meet their own competition.

Mr. LONG. In that particular case, I may say in justice to the Standard Oil Co., they were selling in good faith to certain independent stations to meet the competition of wildcat gasoline.

Mr. KEFAUVER. That is, gasoline which they had sold to their own wholesalers.

Mr. LONG. Of course, it could be gasoline that someone was offering to sell to the same jobbers, but the effect of it would be to sell Standard Oil gasoline to such persons.

Mr. LODGE. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield for a question.

Mr. LODGE. I note in the committee report the argument is made in support of the bill that it was made necessary because of the confusion resulting from decisions of the Supreme Court. My question is, instead of passing a bill which is a moratorium, why should we not pass a bill which is a clarification, if that is the reason for action?

Mr. LONG. In my opinion if we were going to pass a bill, it might be well to go ahead and pass a bill to clarify the entire matter for all time to come. But I do not think this bill clarifies anything. I believe after the bill is passed, our antitrust laws will be twice as much confused as they are at the present time. For example, the attorneys of the Federal Trade Commission now are trying to find out exactly what section 1 means, and whether that is to have the effect of throwing them back to the Sherman antitrust law when they try to combat monopolistic practices.

Mr. BREWSTER. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield.

Mr. BREWSTER. Has the Senator examined the records of the controversy which prevailed among the counsel for the Federal Trade Commission in the hearings before the Committee on Interstate and Foreign Commerce as to the interpretation of existing law?

Mr. LONG. I have not examined all of them. I may say I am very cognizant of the fact that there are some people in the Federal Trade Commission, Mr. Lowell Mason and a few others, who have taken a position which I feel is exactly what the big concerns of this country want. On the other hand, there are some other attorneys in the Federal Trade Commission who take the position which I believe the small-business men, if they were well advised, would take.

Mr. BREWSTER. Leaving out the membership of the Commission, because we will not consider that, the actual personnel of the staff of the Commission, the counsel, and associate counsel, presented before the committee the most conflicting views as to the interpretation. I regret that the Senator would necessarily give a sinister construction to the opinions of men in a matter so controversial as this.

Mr. LONG. Quite the contrary, I give no sinister construction to the fact that a man happens to favor big business. I think big business does wonders for this country, but I do not personally believe we should make big business any bigger. On the contrary, I believe we should try to encourage and develop small business.

Mr. BREWSTER. I, of course, do not know the situation in the Senator's State,

but in New England it is small business that is chiefly concerned about this situation. I ask the Senator from Louisiana what he would do about this situation, involving the geographical monopoly which is necessarily created by the theories which the Senator is advocating. There is one cement plant in New England, located in the State of Maine, at Rockland. Under the theory that freight may not be absorbed, they necessarily have a complete monopoly of the entire market in northern New England. The nearest competing cement plant is in Albany, N. Y. What does the Senator feel as to the resultant monopoly of that cement plant, which immediately meant that prices went up about 10 cents a barrel?

Mr. LONG. We have exactly the same situation in Louisiana, at the moment. The Lone Star Cement Co. is assumed to be the local monopoly in that area. The Lone Star Cement Co. has its plant in New Orleans, and it does not have to pay the same freight, let us say, as the Lehigh Cement Co., which has a mill at Birmingham, in order to compete in New Orleans. Actually there is nothing at all to keep anyone from absorbing freight, as I believe I can prove in the course of this debate, unless it is prohibited by the Federal Trade Commission Act or by the Clayton Antitrust Act.

Mr. BREWSTER. That is a very considerable qualification.

Mr. LONG. Yes. It is prohibited if the effect is to eliminate competition or to prevent competition, or to harm competition. The cement companies were absorbing freight in order to prevent competitive bids. For example, suppose one of our cement companies decided they wanted to sell cement in the Senator's State; they would before shipping to that State, find out what price the base mill was charging in his area, and what the freight rate was to that area. Then they would absorb the freight to base mill; and that is the price they would charge. When companies were asked to bid, every one of them would bid exactly the same price. I am in favor of freight absorptions in order to compete, provided the companies do not absorb freight to the extent that all bidders arrive at exactly the same price. It is all right to absorb in order to compete, so long as it is not done in such a way as substantially to harm or prevent competition.

Mr. BREWSTER. Has the Senator read some of the opinions of some of the very able counsel expressed before the committee? The specific question was asked by the Senator from Indiana [Mr. CAPEHART]: "The only way a businessman can be safe, is to have one uniform mill price?" And the answer was "Yes." Does the Senator from Louisiana think we should carry the law to that extent?

Mr. LONG. I do not believe that is the law.

Mr. BREWSTER. I did not ask the Senator whether that is the law.

Mr. LONG. The Federal Trade Commission has never proceeded on such an assumption. A person can always be safe with a uniform mill price or with a zone price for the entire United States, but when a company wants to absorb freight in certain ways, or wants to do it in such a way that there will be no competition in price, I think it is a practice which must be outlawed. That is the practice which the Federal Trade Commission has been so diligently trying to prevent. We have here a bill which, in my opinion, opens the door again and legalizes the whole practice, making it impossible to prove, except by getting the actual transcribed record of a verbal conversation, a conspiracy, by two or more persons. I feel that this bill, if enacted, would prevent the Federal Trade Commission from proceeding in the obvious way and saying, "There is no competition. Everybody bids the same price."

Mr. BREWSTER. I appreciate the solicitude of the Senator regarding the big-business aspect of the question, but has the Senator read the very voluminous evidence adduced in the hearings before the Committee on Interstate and Foreign Commerce as to the plea of small business whose geographical location is being completely disrupted by the action and the attitude of the Federal Trade Commission? In New England the small industries have to get their steel and essential commodities at certain prices. The immediate effect has been to destroy their ability to compete in the areas in which they have historically operated.

Mr. LONG. I am much more concerned with the plea of many small-business men before the Small Business Committee, who represented their organizations in saying that this bill would absolutely wreck them if it be passed in its present form. I have also read the testimony given by the CIO steel workers. Mr. Brubaker, I believe his name is, said there was pressure put on the steel people. I have also read statements of people in the Federal Trade Commission to the effect that they had not seen anyone inquiring what the law means; that people seem to know what it means, and that there is not so much confusion as some persons seem to think.

In the opinion of Dr. Machlup, the author of this book, there is a gigantic campaign afoot for the steel companies, the Paper Trust, and other monopolies, to come here in the guise of small-business men and try to make their case. I was going to read this later on, but I may as well read it at this time——

Mr. O'CONOR. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. O'CONOR. Does the Senator from Louisiana know that our committee invited the Federal Trade Commission to answer whether there had been formal requests made by associations of commerce throughout the country along the very lines cited by the senior Senator from Maine as to the cause of the existing condition, and that the Commission would not enlighten those various groups as to the propriety of certain actions? Examples were cited to show that it was detrimental to the interests of small business, but the Commission would not or could not enlighten them on that point.

Mr. KEFAUVER. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. KEFAUVER. Is not this what happened: That after the decision of the Supreme Court in the Cement case the United States Steel Corp. and certain other interests decided they were going to scare Congress and small business into the feeling that something had to be done about this basing-point business? Chairman Olds said, in substance, that they tried to scare business people by selling steel at the same f. o. b. price for which it had been sold on the delivery basis, thus adding the freight to the purchasers of the steel. That is the reason that small-business people all over the country became frightened. It was a concerted campaign to make them feel they would have to pay higher prices and the big trusts would add it onto their profits.

Mr. LONG. That very point is very carefully made and very well proved in this book. The author has taken the position that the prices which the mills had been maintaining were unreasonably high in order that there could be a certain amount of freight absorption in matching prices all over the United States, and when the basing-point system was thrown out, instead of bringing prices down to yield the same net return as before, the big corporations, in order to put the heat on Congress and in order to have passed the type of legislation we see here today, instead of reducing the mill price, simply maintained the same high mill price in order to scare Congress and small business and make them think they had to give in.

I wish to read a quotation from this book——

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CAPEHART. Is the Senator in favor of permitting any seller in the United States, large or small, to absorb freight or equalize freight?

Mr. LONG. I am in favor of letting him discriminate in any way he wants to, so long as he does not act in conflict with the antitrust laws which are on the statute books.

Mr. CAPEHART. Does the Senator know that each of the attorneys who testified before the Interstate and Foreign Commerce Committee, and the chief counsel and associate chief counsel, said it was impossible for a seller to know whether he was within the law if he were selling even on an f. o. b. price?

Mr. LONG. I am not cognizant of that.

Mr. CAPEHART. Is the Senator willing to take my word that they did testify to that effect, that they were unable to tell a seller whether he was violating the law if he was absorbing freight and equalizing freight, and that the only safe way under existing law and interpretations by the court was for the seller to sell f. o. b. his own place of business? Everyone of them so testified.

Mr. LONG. I should be glad to explain what my conclusion is, based upon the Senator's statement, assuming it to be the case.

Mr. CAPEHART. It is the case.

Mr. LONG. I have no reason to doubt it. Why could they not advise the seller, if he was going to absorb freight, whether

he could be restrained by the Federal Trade Commission from doing it? It depends upon how it is done. Suppose a person were going to absorb freight on a walk-in deep-freeze box at Monroe, La., and was not going to absorb freight anywhere else. Suppose a little producer at Monroe is making the same type of box. The effect is to undercut his price and run him out of business. Maybe the company does not know he is there; maybe it does not know he exists. Nevertheless, when freight is absorbed to that area, and the price is undercut consistently, day after day, that person will be run out of business.

So long as a pricing system is established which does not involve discrimination or destroy or injure competition, there is no possibility that one could be restrained. I say that a single zone-pricing system, such as some of the oil companies have shown a tendency to follow, by which they maintain the same price all over the United States for their commodity, does not lead to discrimination There is no discrimination in the case of a straight f. o. b. pricing system, but if a system of freight absorption that involves discrimination is established and if it is set up in such a way as to lessen competition, it can be restrained.

Mr. CAPEHART. Mr. President, there is nothing in the proposed act—if there is, it should be taken out—that is intended to discriminate. There was never any intention on the part of any one who had anything to do with drafting the legislation to do anything other than to clarify the law so that an independent seller could pay all the freight, absorb freight, or equalize freight, without fear of being prosecuted by the Federal Trade Commission. That has been the purpose of the legislation, that is its only purpose. That is all anyone who has been interested in it has ever wanted. That is all the sponsors have asked for. That is all any witness who has ever testified before the commitee ever asked for. That is the entire purpose of the legislation, namely, to clarify the law so that an independent seller may pay all the freight, absorb freight, or equalize freight.

We who listened for weeks and weeks and weeks to testimony from all kinds and types of businesses, and from the attorneys for the Federal Trade Commission, finally came to the conclusion that the law should be clarified, for the simple reason that no two of the Federal Trade Commission attorneys could agree on what the law was. In every instance when we asked those charged with the responsibility of prosecuting under the law what was a legal operation in respect to freight absorption, and what was illegal, they could not tell us. All they could say was that the only way one could be certain he was not violating the law was to sell f. o. b. his own place of business at a uniform price. I shall point out the reason.

Suppose a seller adopts a policy of paying the freight on his goods. That in itself is not illegal, even under the existing law. Suppose a motor manufacturer let us say, is paying the freight on his products. He may be selling motors to a washing-machine manufacturer in Minneapolis, and selling motors to another manufacturer in San Francisco, and his factory is located in Chicago. It is perfectly legal for him to pay the freight. However, the freight from Chicago to San Francisco is much more than the freight from Chicago to Minneapolis. Therefore, if he is paying the freight, the man in Minneapolis is paying more for the goods than the man in San Francisco is paying, and under the Robinson-Patman Act the seller is subject to prosecution because he is discriminating between the two purchasers of motors, since both of them use the motors in the manufacture of washing machines, and both compete in the Nation-wide market. That is what we are trying to get away from.

Mr. LONG. I would say that one would be subject to prosecution only when it could be shown what the effect was, and only if the effect was either to prevent competition, injure competition, reduce competition, or eliminate competition, and it must do so in a substantial way.

Mr. CAPEHART. Would the Senator be in favor of clarifying the law so that it would be absolutely legal for a seller to pay the freight, or absorb the freight, or equalize the freight?

Mr. LONG. I am in favor of entering into any reasonable understanding as to what the law is, but I do not think we need any change in the law. I have not found one attorney who has studied this matter, with whom I have discussed it, with whom I could not agree as to exactly what the law means as it now stands. Yet I find many attorneys who tell me that they have no conception of where they would stand in an antitrust prosecution under this proposed law.

Mr. CAPEHART. Let me give the Senator the exchange between the Associate Chief Counsel of the Federal Trade Commission, Mr. Wooden, and myself. I said to him, "If I send out a hundred salesmen and say to them, 'Now, meet the price of any of our competitors wherever you find them,' would that be legal?" He said, "Yes." I said, "If I send out 100 salesmen and say, 'Equalize the freight with any of our competitors wherever you find them,' would that be legal?" He said, "Yes." Then I said, "Then what are we arguing about? When would it be illegal?" He said, "It would be illegal when the majority, or all the producers in a given industry, are doing exactly the same thing" which he said would be perfectly legal for me, myself to do. I said, "How are you going to control that sort of situation?" He did not know. He simply arrived at the philosophy that it was perfectly legitimate for one man to pay the freight, but if half a dozen of them—and there were only half a dozen of them in the industry—paid the freight, it would become illegal. How is anyone to do business under those conditions?

Mr. LONG. Anyone doing business can sell in any way he chooses in order to meet competition, so far as the Sherman Act is concerned. Nobody knows better than the businessman whether he is conspiring with someone to prevent competition, or to agree on and arrive at the same price.

Mr. CAPEHART. But this bill——

Mr. LONG. I am coming to that. There are a couple of other acts it is proposed to amend. I believe the Sherman Act is sufficient to catch the freight absorption practice.

Now, going a step further, there is the Federal Trade Commission Act, which is a very complicated law. It is impossible for one to tell, in many respects, whether he is violating the law or not, because the act prohibits one from discriminating in price. A straight f. o. b. selling basis cannot be a discrimination. A straight zone pricing system is not discriminatory. Any other pricing system is discriminatory. A producer sells in one area cheaper than in another. He gives somebody a price where the net to him is less when he sells to one man than it is when he sells to another. That is discrimination.

The acts now on the statute books were drawn at the behest of the small-business people, who say they want to outlaw discrimination where the effect may be to reduce substantially, to eliminate, or prevent competition. One engaged in business cannot always tell whether he is doing that, but if he is following a practice which will eliminate competition, for instance, following the practice pursued by the A & P stores, selling to some for 30 percent below what others are paying, he is eliminating competition. But suppose he is selling to an individual store at 30 percent below what he is charging somebody else in the same area. He does not know whether he is selling to eliminate or reduce competition or not. The Federal Trade Commission calls on him and says, "You are giving that man a discriminatory rate which is running the man across the street out of business," and they tell him either to stop the discrimination or to sell to the other at the same price.

Mr. KEFAUVER. Mr. President——

The PRESIDING OFFICER (Mr. McCLELLAN in the chair). Does the Senator from Louisiana yield to the Senator from Tennessee?

Mr. LONG. I yield.

Mr. KEFAUVER. A few minutes ago, in the colloquy between the Senator from Indiana [Mr. CAPEHART] and the Senator from Louisiana, the Senator from Indiana made the statement that business did not know what to do, that there was much confusion, and that it was not known whether acting independently in absorbing freight was legal or illegal.

I call the Senator's attention to the fact—I know he has read this opinion—that that may have been the case when the Senator from Indiana was conducting hearings on the subject, but it is no longer the case, because on the 7th day of July 1949, a decision was rendered by the Federal Trade Commission, by the four members of that body, pursuant to the application of the Rigid Steel Conduit Association to reopen the case, in which the Commission denied the petition, saying:

The Commission does not consider that the order in its present form prohibits the independent practice of freight absorption

or selling at delivered prices by individual sellers.

So there is a direct, definite statement by the Federal Trade Commission, by all its present members, which to my mind entirely eliminates any necessity for the passage of this bill for clarification in order to avoid confusion.

I should also like to ask if the distinguished Senator is not familiar with the opinion of Mr. Walter B. Wooden, the chief counsel of the Federal Trade Commission, submitted to Representative PATMAN on June 8 in which the same expression is made by this distinguished attorney? So in view of the decision and Mr. Wooden's opinion I do not see how there can be any basis for any real confusion on behalf of anyone as to what the law is or as to what the Federal Trade Commission is going to do in the future. Does the Senator agree with me?

Mr. LONG. I made this point earlier. Someone suggested that possibly I was charging some improper practice. I should like to make clear that I cast no aspertions on any Senator. I am certain that every Senator on the floor is 1,000-percent sincere in his views. But when we arrive at completely divergent points of view, somebody must be right and somebody must be wrong. I contend that much of the alleged confusion is the result of a campaign by the great trusts of the country to make it appear that there is confusion. I have discussed the subject with some of the best lawyers in the Senate, and when Senators actually sit down in conference and they all understand the proposed legislation, they are in agreement that it means the same thing to all of them. I have discussed the matter with the chief antitrust attorney of the Department of Justice. He agrees with me and with other Senators who are attorneys, as to what the proposed legislation means. We all agree what it means.

Let me read from a man who is not an attorney, but who is an economist, Dr. Machlup. I read his views respecting the situation, from page 56 of his book:

HIGH PRESSURE CAMPAIGN

"The heat is on Congress to legalize the basing-point pricing system." This was the lead sentence in a report on the flood of letters, telegrams, telephone calls, and personal visits descending upon Senators and Representatives in Washington.

The footnote at that point is:

From the Wall Street Journal of July 29, 1948.

I continue to read from the book:

How was this campaign arranged? Early in July 1948 the steel and cement industries decided to abandon the basing-point system of quoting delivered prices and to adopt the f. o. b. mill method of pricing. Mr. Fairless, of the United States Steel Corp., explained the decision as follows:

"We have no recourse other than to comply with the law of the land as determined by the Supreme Court, regardless of the hardship and dislocations to American industry which may result."

I digress there to say, Mr. President, that there is one wonderful thing about this basing-point law. Everyone who is in business somewhere seems to be moving somewhere else. No business is going anywhere else, but they are all, allegedly, moving. In my section of the country, paper mills and other industries are allegedly going to be closed down. Yet in spite of all these statements about industry moving from this place and from that place, we apparently are not going to have one of them locate in the State of Louisiana. I know of no State that is going to be the host to any industry which is allegedly moving from some other State. The Senator from Illinois said his State is not receiving any such industries. Industries here and industries there are going to move from their present location, but no one finds that they have moved to other locations, or what locations they plan to move to.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BREWSTER. I can cite the Senator certain industries that will not move. Has the Senator studied the Corn Products situation?

Mr. LONG. I am somewhat familiar with the corn products case. What does the Senator have in mind by his question?

Mr. BREWSTER. I am not referring to the case itself, but to the geographical problem which is involved, and the complete fringe of plants which Corn Products has established around the country, and which entirely encircle the heart of the area. So, if the theories of the Federal Trade Commission, as represented to our body, were applied, Corn Products would have a complete monopoly of practically 90 percent of the business of the country in that field. There is no other way out of it unless the small industries in Iowa or elsewhere are able to secure the resources to move out into a competitive area. Did the Senator envision that as a desirable solution?

Mr. LONG. The Senator will find that there is no way over the long pull that anyone is going to be able to maintain an industry at a bad location. It is not necessary for us to have this monopolistic price-fixing system in order to hold the industries of the Senator's State in his State as long as they care to remain there. If they want to absorb freight they can do so. They can discriminate in price to meet competition. The only time they run into trouble is when they discriminate so as to arrive at identical prices or to discriminate so as to run somebody out of business who is competing with them. Of course, that is reciprocal.

The Senator spoke of the cement industry in his part of the country. That industry is protected by the same law that protects other industries. If a cement company in Louisiana or a cement company in Wyoming decides it wants to run his cement company out of business, he will find his company is protected by the antitrust laws.

Mr. BREWSTER. That is not the point the Senator from Maine made. He wants to be protected from the legal monopolies created by the theories the Federal Trade Commission has advanced. It was not that the prices were too low. It was because they immediately went up as the steel prices and the prices of other materials went up.

It is very easy for the Senator from Louisiana to suggest that the steel companies did this because they wanted to accomplish some design. Would it not be a little simpler to infer that they did it because of their interpretation of the Federal Trade Commission action and the decision of the Supreme Court?

Mr. LONG. I completely disagree, but I should like to reserve discussion of that point until I reach it in another page or two of my speech. Time and again in this debate it has been asserted there is no doubt that freight can be absorbed to meet any competition. The only thing one is restrained from doing is to absorb freight to prevent competition.

Mr. BREWSTER. The Senator speaks with great assurance regarding the law. Certainly in the course of some 6 months of hearings we heard no such assurance as the Senator from Louisiana expresses. On the other hand, all the legal lights who appeared before us were in complete confusion as to how to interpret the decisions of the Court and the decisions of the Federal Trade Commission. Does the Senator from Louisiana feel that he can seize the crown of the Senator from Wyoming [Mr. O'MAHONEY], who has certainly been a champion of small business against big business for a long time? He is deeply interested in the situation regarding the sugar beet industry in his State. The same is true of the Senator from Colorado. They see no way out of the impasse resulting from the interpretations of the various decisions which have been made. So they have sought the present solution. Will the Senator from Louisiana intimate that they have lessened their devotion to the principle of competition and of small business?

Mr. LONG. I would not cast any aspersion upon any Senator. I feel that possibly the Senator from Maine is inviting me to do so. I would simply say with reference to the beet sugar industry that I have already explained my position on it. If we use the system that is being used by the beet sugar industry and attempt to legalize that by a general legislative measure so far as freight absorption and basing-point practices and monopolistic practices and violation of antitrust laws are concerned, the bars of the gate will have been let down so far that anybody can come in. I think if the Senator will study the way freight is absorbed by the sugar beet producers he will find that the old system would be legalized under the proposed legislation. There are sugar producers in my State also. They have caught onto this basing-point system. They find it to be a good way to rob the consumer. But I am not going to vote to rob everyone in the country on steel, on paper, on cement, and on various and sundry products made from those materials, in order to further the interests of a few sugarcane refiners in my State.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. LONG. If the Senator will wait a moment, I should like to finish my point.

I will go further and say that the Department of Agriculture estimates that

if our sugar producers who are benefiting from the monopolistic type of conspiracy, so far as the mills are concerned, had to comply with the antitrust laws in every respect, it might have the effect of reducing their prices by as much as half a cent a pound, although it is well understood that they would not have to go on a complete f. o. b. basis.

Furthermore, it is a pretty well-established fact that when our refiners get together to decide what the price to the consumer is to be, they usually decide that they are not going to pay our cane producers more than a certain amount for their cane. So such slight injury as may be suffered by the processor in the last analysis will probably have to be taken care of in some other way. Our sugarcane industry is completely subsidized. We could not compete with Cuba or Puerto Rico if we had to do so. The only way we can get along is for the Government to subsidize us, pay us a bounty, or impose a tariff or importation of sugar. If the Government is going to enable us to continue in existence under a reasonable living wage, it might as well do so in such a way that we can operate honestly under the antitrust laws.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BREWSTER. The Senator from Louisiana recognizes, does he not, that the beet-sugar producers are equally desirous of surviving?

Mr. LONG. Certainly.

Mr. BREWSTER. I do not question the sincerity of the Senator from Louisiana, whose primary interest, I assume, is in cane sugar rather than beet sugar. The problem of the beet-sugar producer is to meet the competition of cane sugar. The beet-sugar producers of the Rocky Mountain region desire an amendment of this bill. I am sure the Senator from Louisiana will not challenge the sincerity of other Senators, any more than they would question the sincerity with which he champions the position of the cane-sugar producers.

Mr. LONG. I recognize the complete sincerity of every Senator, speaking for the interest of his State. But so far as the beet-sugar people are concerned, if we are going to try to legalize what they are presently doing—and they are in direct violation of every antitrust law on the books—we might as well repeal the Sherman Act, and all the rest of the antitrust laws.

Mr. BREWSTER. Is the Senator prepared to accept the inevitable conclusion that the beet sugar industry in the Rocky Mountain States would be wiped out?

Mr. LONG. Not at all.

Mr. BREWSTER. That is the evidence before the committee, because 80 percent of their production must move into the markets of Chicago, Ill., and other points, in competition with cane sugar. The beet-sugar producers could not possibly survive except under the practices under which they are now operating, which the Senator from Louisiana contends are in plain violation of the law.

Mr. LONG. I regard that as a very erroneous interpretation. I say that they can absorb all the freight they desire on beet sugar. But the practice which I am discussing is the practice of sitting down with sugar-cane producers and importers and saying, "We are going to sell at a certain point based upon your delivered price"—not on how much they have to make to succeed in business, but on a basing-point theory based upon how much it would cost to import Philippine sugar into San Francisco and ship it to the Western States, or how much it would cost to import Cuban sugar into New Orleans and ship it to the surrounding territory; or, how much it would cost to import into New York and ship into the Eastern States and basing the price on those points. If the Senator would like to completely exempt the sugar-cane industry from the antitrust laws, it is all right with me, but when he drafts a law such as Senate bill 1008 to take care of them, he exempts every other monopoly in America.

The sugar-cane industry is a low-standard industry. So far as we are violating antitrust laws and taking advantage of the American consumer by reason of the low standard of living, there may be some justification for continuing the practice. I believe it would be better to outlaw such a practice, make them live up to the antitrust laws, obey the decrees of the Federal Trade Commission, and proceed from there. If they have to have a little more subsidy, we will have to give it to them. I believe that in the last analysis Senators from the beet-sugar-producing States will probably be on my side when we try to get a greater subsidy for our sugar in order that we may pay a better wage and give up the trade restraining practices, and make a reasonable profit.

Mr. BREWSTER. How is the price of sugar determined now?

Mr. LONG. It is determined under the Sugar Act. There are certain tariffs, and the Secretary of Agriculture is required to make certain allocations with respect to how much sugar comes in and how much we need in this country.

Mr. BREWSTER. How is the price of Cuban sugar determined? Who buys the Cuban sugar crop?

Mr. LONG. I do not know how the price is determined.

Mr. BREWSTER. Does not the Government buy practically the entire crop of Cuban sugar which is imported?

Mr. LONG. I am sure the Senator from Maine knows more about the subject than I do.

Mr. BREWSTER. I am only a sugar consumer, as well as the son of a small retail grocery merchant who had to buy the sugar. I used to hear my father talk about "the figure." The beet-sugar producers have determined their prices at about 10 cents a hundred, I believe, below the cane-sugar price in Chicago. That has been the historic differential. Meanwhile, the prices of Cuban sugar and Louisiana cane sugar necessarily follow along.

We talk about discrimination. How much does the price of sugar vary? Are not prices identical? Otherwise, why would my father buy sugar from anyone who charged 5 or 10 cents a hundred more than did his competitor? Sugar is a uniform product.

Mr. LONG. With regard to the price of sugar, I suggest that the Senator consult our sugar people. My understanding is that the importers sell on an f. o. b. basis. Certain other people sell by matching those prices. The only objection I have is that from time to time those people are found to be in violation of the law and in conspiracy. I do not mean a conspiracy to reduce prices or absorb freight to get the business. I will cover the question of what I believe is legal and what is illegal. Our people would not particularly suffer if they had to follow the antitrust laws, but it would be an inconvenience. If we are going to save the antitrust laws for the steel companies, if we are going to have loopholes for the benefit of the cement companies and other monopolistic groups, we might as well do it for our sugar people. I am not going to maintain the basing-point system in order that the sugar producers may participate in that kind of system.

Mr. O'CONOR. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. O'CONOR. The Senator continually notes the fact that his principal objection is to the alleged practice of sellers getting together and fixing prices. Does the Senator bear in mind that the Judiciary Committee of the Senate specifically wrote into the bill a proviso that the only situation which would be covered would be that in which the seller acted independently, and not in concert with anyone else, in good faith to meet the competition? As I previously undertook to point out to the Senator, there is written into each provision of the bill the stipulation that it should not make lawful any combination, conspiracy, or collusive agreement.

Mr. LONG. I will say to the Senator that I fear he missed the earlier part of my speech. I answered that question at that time.

Mr. O'CONOR. Will the Senator repeat that statement?

Mr. LONG. I shall be happy to do so. The bill provides that it shall not be unlawful to absorb freight, and that it is not an unfair practice to do so, or to quote or sell at delivered prices. The proviso is as follows:

Provided, That this shall not make lawful any combination, conspiracy, or collusive agreement; or any monopolistic, oppressive, deceptive, or fraudulent practice, carried out by or involving the use of delivered prices or freight absorption.

I construe that to mean nothing more nor less than that we are not repealing the Sherman Antitrust Act. I do not believe we can assume that it means anything more than that.

Mr. O'CONOR. I heard the Senator's previous answer; but in answer to the questions of the Senator from Maine [Mr. BREWSTER] the Senator from Louisiana has not made any reference whatsoever to the fact that there is specific mention in the bill several times, not of the provision which the Senator has just read——

Mr. LONG. Is the Senator referring to the words "acting independently?"

Mr. O'CONOR. Yes.

Mr. LONG. I shall be happy to answer that question. If the Senator will

read the Cement Institute case, he will see that on the first page the Court stated in its opinion that in order to win the Cement Institute case the Federal Trade Commission had to present 50,000 pages of exhibits and 49,000 pages of testimony. The case required 14 years. There are 25 other major industries using the same pricing system.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. DOUGLAS. Is it not true that in a great many industries separate firms do not gather together in a room; they do not meet at a "Gary dinner"; and they have no connection with each other——

Mr. LONG. The "Gary dinner" is a very antiquated practice.

Mr. DOUGLAS. Yet the leading firm in the industry will publish its prices at a base point, or at multiple base points. The other firms in the industry will have certain freight rates, and then each and every firm will take the base prices, add the freight rates to given points, and they all come out with identical prices at a given destination So there is no collusion. There is no conspiracy. They apparently act independently, but they reach a predetermined result, which is an identical price in each and every locality in the country. Is not that true?

Mr. LONG. That is true.

Mr. DOUGLAS. Is it not true that this bill would legalize such practices? It would require proof of collusion and conspiracy.

Mr. LONG. That is the opinion of those of us who are fighting the bill. In my opinion the words "acting independently" do not help much when we are trying to reach the basing point pricing system. United States Steel has been the unchallenged price leader in the steel industry for a period of many years—certainly since long before I was born. United States Steel has habitually posted its prices, and also quoted prices for rail freight and delivery at various destinations. Historically every other company in America once charged the Pittsburgh-plus price. The price of steel was the price at Pittsburgh plus the freight to wherever it was to be delivered. Suppose one were ordering from Birmingham, and his business was situated across the street from the Birmingham mill. The Birmingham mill would quote the price at Pittsburgh, plus the freight rate to Birmingham. If this bill is passed and if it can be proved that the people at Birmingham actually conspired with the people at Pittsburgh to charge the same price, then it will be possible to get at that practice. But suppose they proceed in the subtle, shrewd way—the modern way. Suppose there is no documentary proof or agreement or recorded conversations or the 50,000 pages of exhibits which were put in the record in the Cement Institute case. Then how will it be possible to catch the monopoly when identical prices are quoted? Probably it could not be correctly alleged that Mr. Fairless even whispered to the man across the street. They can arrive at this practice because it has been historical and in effect for 60 years. Certainly we would never be able to get at this practice independently. The word "independently" is a wonderful word, Mr. President; but it happens that these men, who in my opinion would be satisfied with section 1, know what the word "independently" means. I have been told that in many cases when the Government sought to institute a case charging conspiracy, an able trust attorney had been working for some time to remove from the files any evidence of agreement or concerted actions or actions of conspiracy. Unfortunately for them, that was not done with the records of the Cement Institute case in time; but they will be smarter next time.

Mr. President, I was speaking of the fact that there has been pressure on Congress to change the law. I should like to quote a little further from Dr. Machlup's book on that subject. He says:

> Since in fact no necessity to adopt the f. o. b. mill pricing system existed, Senator O'MAHONEY in a statement to the press about the steel industry's move, commented that there was "reason to believe that its real purpose is to seek an opportunity to raise steel prices * * * and attribute the increase cost to the decision of the Supreme Court and the activities of the Federal Trade Commission."

That is the same thing that was suggested a few moments ago by the junior Senator from Tennessee.

The author of the book goes further, saying:

> This would probably give rise to considerable pressure on Congress to change the antitrust laws so as to legalize a multiple-basing-point delivered-price system.

That is quoted again from the Wall Street Journal.

Then the author says:

> The Senator's prediction proved correct. The industry increased its prices, and explained it as a necessary consequence of the change in pricing methods. The same was done in the cement industry. Buyers were made to believe that the increased prices they had to pay were due to the fact that the Court decision had made freight absorption illegal. And the campaign high-pressuring Congress to legalize the system was off to a booming start. "If this was part of big-steel strategy, it has been successful," commented a newspaper reporting on the developments in the steel industry.

Once again, that is a quotation from the Wall Street Journal.

I read further:

> Next to the price increase that was pinned on the abolition of the basing-point system, the relocation scare also has been effective in producing political pressures on behalf of legislation to legalize the system. Hundreds of communities are said to be threatened by intolerable unemployment supposed to ensue from a shut-down of local plants or their movement to different sections of the country. Strangely enough, news items about the establishment of new plants and the immigration of plants removed from other localities have been relatively rare. The number of plants moving away from particular places always seems to be much greater than the number of those moving into particular places. This incongruity of news reports may be the natural result of honest utterances of managers stating their decisions to move to still undetermined places. But it may also be the result of a clever strategy designed to secure the help of people to save their communities, and thus designed to win sympathy and support for attempts to obtain legislation permitting basing-point pricing.

Then the author goes a little further. Under the subhead of "Broadening the opposition," he says:

> If the opposition to the policy of the Federal Trade Commission were confined to members of industries employing the basing-point system, to those of their customers who believe that they must pay higher prices because of the abolition of the system, and to the spokesmen for localities allegedly harmed by the relocation of industry, the political pressure might not be strong enough to be effective. Thus the rallying of a broader opposition appears politically expedient. The opposition can be broadened by convincing more and larger groups that they are threatened by the same policy.
>
> All court decisions condemning the basing-point system have related to industries that employed it under a scheme of collusive or concerted action. But by giving to certain dicta of the courts with respect to the price discrimination inherent in the system a rather extensive interpretation, one may make it appear as if the condemnation applied also to noncollusive, nonconcerted systems of freight absorption, practiced individually and independently. If the condemnation were to apply to all these noncollective pricing systems, the number of businesses affected by it would be vastly increased. Talk about this possibility has greatly strengthened the opposition.
>
> While it may be admitted that there is room for honest doubt as to the interpretation of certain statements in the decisions of the courts, it must be repeated that there has never been a complaint, or any other action, by the Government charging unlawful price discrimination where collusive or concerted conduct and substantial injury to competition were absent. Hence, it ignores the facts to say that the Federal Trade Commission plans to outlaw all systems of delivered prices or all systems of freight absorption. But to say it can undoubtedly increase the opposition to the Federal Trade Commission and increase the pressure for legislation legalizing collective freight equalization schemes along with individual freight absorption—which is legal anyway.

Mr. President, I ask this question: Does Senate bill 1008 legalize this monopolistic basing-point pricing system? If it does, then we owe it to our constituents, we owe it to those who have accepted the pledges of our parties, to defeat this bill. If it does not, then I am certain that the Steel Trust, the Cement Trust, the Paper Trust, and every other monopolistic concern of America has no interest in Senate bill 1008. When we hear all this talk about absorbing freight, nobody mentions the fact that not all freight is absorbed, but that in a basing-point pricing system, each concern absorbs only the amount of the freight that it is necessary to absorb in order to arrive at an identical price. We have heard this talk about acting independently; yet everyone knows that the beauty of the basing-point system is that it is the most cleverly conceived device ever invented by the mind of man to evade the Sherman Antitrust Act, because it is almost impossible to prove that the firms are in conspiracy except by the consistent identity of bids. Any time 10 different manufacturers bid the

identical same price on sealed bids—right down to the fifth decimal point—any reasonable man can look at the effect of this practice and say that it is inconceivable that this could have happened in the absence of monopolistic conspiracy, and yet, the Sherman Act has been on the books for 60 years and the courts have not yet been willing to concede that the effect of this identity of prices under the beautiful name of "freight absorption" could mean anything other than that a conspiracy was under foot. So let us put the question: Do the authors of S. 1008 propose to legalize the basing-point pricing system?

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. LONG. I yield for a question.

Mr. BREWSTER. I have sent for the transcripts of the evidence which I think will at least be of some value to the Senator in reaching his conclusion. I have before me the statement of Walter B. Wooden, associate general counsel of the Federal Trade Commission, on page 142 of the Study of Pricing Methods, Under the Authority of Senate Resolution 241. Mr. Freer, Chairman of the Federal Trade Commission, in response to a request by the committee for recommendations as to people who might appear, and after giving various suggestions about the matter, and naming various men, concluded in this way:

As an attorney who has specialized in the subject from a combined legal and economic standpoint, the Commission would suggest its associate general counsel, Walter B. Wooden.

I cite that in order that there may be no doubt that the Commission sent him as their authorized representative. I now turn to his testimony on page 247, in which the following questions were asked, bearing on the points the Senator has raised:

Senator BREWSTER. It is not at all the basing point, it is the uniformity of price that is the difficulty, is it not?

Mr. WOODEN. That is the effect on competition that the law seeks to get at, and the basing-point system runs counter to that, in my judgment.

Senator CAPEHART. Then, Mr. Wooden, you are saying, from a practical standpoint, that the only safe procedure that a businessman can follow is f. o. b. at his own place of business?

Mr. WOODEN. Yes; plus this qualification, that he can make all the delivered prices he wants to, if those delivered prices make due allowance for differences in his costs of delivery.

Senator MCMAHON. That is f. o. b. plus freight, in each case?

Mr. WOODEN. It is the equivalent of a uniform mill net.

That statement was made repeatedly by Mr. Wooden, speaking, as he did, as the associate general counsel of the Federal Trade Commission, that the only safe thing any American businessman could do would be to employ a uniform mill net. If that is the case, if that is the law—and certainly Mr. Wooden, as I am sure the Senator from Louisiana will recognize, having spent his life in a study of this subject, speaks with as much authority as anyone in the interpretation of law and of the decisions—if that be the case, then is there not reason for the concern of every businessman, large and small, as to the situation he confronts, and is there not reason why business, whether big or little, should feel that they would like some clarification in order to be sure that the opinion which the Senator from Louisiana now so strongly expresses is perhaps correct?

Mr. LONG. If the Senator is correct, we might as well take the Clayton Act off the statute books, because the Clayton Act attempts to deal with discrimination.

Mr. BREWSTER. Mr. President——

Mr. LONG. May I ask the Senator from Maine a question, before he takes off again?

Mr. BREWSTER. I am not quoting myself. If Mr. Wooden was correct, then what I stated is true.

Mr. LONG. I think I understand what Mr. Wooden was addressing himself to. The Clayton Act and the Robinson-Patman Act deal with discriminations, and when one starts discriminating, there is no way one can know, under those acts, whether the discrimination is going to have the effect prohibited by those acts, unless in advance he carefully studies what he is doing. If a company sells a commodity to one person for $100 and to another for $70, the moment that discrimination is made, regardless of whether the freight was absorbed, there would be a difference of $30, and the net effect would be the same, so far as I am concerned. If it is proposed to give someone a trade discount, or to give him a better price by means of freight absorption, when he enters into that discriminatory contract, with the idea of concealing the discriminatory practice, there is no way he can be sure he is in the clear. There is no way he can be sure that, in so discriminating, he is not violating the law.

If one sells f. o. b., there is no doubt that he is not violating the law. I certainly agree to that extent. But at the present time, when one starts discriminating, the question can be raised by anyone who says he is being harmed. Any competitor who feels he is being run out of business, or who feels that his business is being imperiled by the practice, resulting from the 30-percent discrimination, can come forward and complain to the Federal Trade Commission. One may not know that another man is in that position. He may not know that he is going to run a man out of business when he sells to his competitor at 30 percent below the price at which he sells to another, but that does not mean that, in accordance with the Robinson-Patman Act, the practice should not be restrained. I would say it is on that basis that Mr. Wooden probably says there is no way one can be sure, when he absorbs freight, that he may not be restrained from doing it by the Federal Trade Commission. But first it must be shown that the discrimination has the effect of reducing, injuring, preventing, or eliminating competition.

Insofar as legitimate, independent freight absorption to meet competition is concerned, everyone who has made any study of this matter has no doubt that such a practice is legal. Likewise, everyone realizes that the use of freight absorption for the purpose of arriving at identical prices with a competitor or the use of freight absorption to discriminate in prices to substantially injure, reduce, eliminate, or prevent competition is illegal under the laws today. We need have no change of the law to clarify that issue. Scholars of the law realize that it is true. In support of this statement, I refer to a very excellent article published in volume V of Loyola Law Review, page 18, written by Mr. Edward Lawrence Merrigan, an attorney of note, who has correctly analyzed the illegality of freight absorption in this manner. Reading from page 48, the author states:

The foregoing fact would seem to compel the following conclusion with regard to freight absorption: Systematic freight absorption, employed by individual funds to meet competition, has not been outlawed by the Corn Products, Staley, or Cement decisions; any confusion or uncertainty which might presently exist over the legality of the practice of absorbing freight to meet competition is unnecessary, and is not really important and urgent enough to require the adoption of clarifying legislation by Congress at this time; finally, it would seem that the Commission has no intention of questioning freight absorption employed by single sellers to meet the readily foreseeable competition of competitors.

Now let me read from a quotation a little bit earlier in the same article by the same author. Reading from volume V, Loyola Law Review, page 47, the author states and I quote:

It is submitted that the Federal Trade Commission has not displayed a tendency to require the uniform use of f. o. b. selling by all American business men. To date it has prosecuted delivered pricing methods only where they were found to have brought about the elimination of competition and/or to have been maintained by agreement and conspiracy among sellers. The Commission has never prosecuted a single seller for having absorbed freight, in good faith, to meet an equally low price of his competitors. In its official policy statement, the Commission indicates that it does not intend to do so in the future. The following is a quotation from the Commission's statement:

Here the author quotes from a Federal Trade Commission statement issued October 12, 1948, corrected October 21, 1948, printed in C. C. H., Trade Regulations Reports, section 10, 411. Now I quote from the Federal Trade Commission's official declaration:

The Courts appear to have assumed, though the point has not been squarely decided, that a single seller has a substantive right in good faith to meet the equally low price of a competitor in individual transactions. They have not adjudicated the question whether a single concern, not engaged in an effort to create a monopoly by destroying competitors, may systematically reduce its prices to meet competition in localities where it habitually encounters such competition; and whether reciprocal reductions of this character are permissible so long as they are sufficiently infrequent and void of industry-wide systematic effect as to afford a variety of prices and indicate an absence of collusion.

In approaching these questions, the Commission sees no public interest and has no legal authority to proceed against the practices of a single seller except where probable or actual injury to competition appears in that seller's pricing practices. Accordingly, it will not question such differences in the prices of a single enterprise as are merely

designed to meet the readily foreseeable competition of a competitor where such differences involve no tendency to create a monopoly or eliminate price competition, nor will it question reciprocal price reductions similarly designed where their scope is not such as to preclude variety of delivered prices and raise the problem of collusion. It will challenge discriminatory price reductions which are made to meet nonexistent competition or which involve reciprocal relationships so comprehensive that through them price competition in the industry disappears.

Mr. President, that makes it reasonably clear that no small-business man need worry about his right to absorb freight to meet competition in good faith as long as he is acting independently. No one is bothering the little-business man about his honest effort to absorb freight or to discriminate in his prices in order to compete in good faith except insofar as it might reduce, eliminate, or prevent competition. I have had no request from any legitimate, small-business man in America to favor such legislation as Senate bill 1008. I am completely cognizant of the giant public relations efforts that have been made by the Steel Trusts and the Cement Trusts, among others, to promote small-business people into fearing that they are insecure in their ordinary legitimate day-to-day business relationships merely because the giant monopolies of America are being brought to taw. Let me quote from testimony of Mr. William Summers Johnson, economic analyst for the Federal Trade Commission. Mr. Johnson says:

Much of the agitation for congressional action to do what is euphemistically called clarified antitrust laws, has been carried on in the name of small business. It may therefore be well to try and ascertain who it is that wants clarification. Since these laws became what is called confused, if there has been any great flood of small-business men calling upon the Federal Trade Commission to find out what the law is, I personally have not seen or heard any rumor of them.

Where are all these confused persons, the small-business men, wanting to know where they stand? Not one of them has been to see me.

Mr. President, I am completely in accord with that view. I certainly have had no small-business man legitimately inquiring what the law is with regard to freight absorption. If anyone would honestly like to know what he can do, I would assure him he can do everything but conspire in restraint of trade. If anyone would like to know what he can do, I would suggest that he read volume V, Loyola Law Review, pages 18 to 56.

I consider it to be a very thorough article, and I believe the author correctly analyzes just what the law is as it presently stands. I might say that I approve of the law in exactly that form. I would not support any crippling amendment which would weaken the law as it is at this time.

This review is much more clear than Senate bill 1008, and it would certainly set the small-business man's mind at rest. In fact, it would set any honest businessman's mind at rest. But, Mr. President, a lot of monopolistic businessmen, a lot of men who have been successfully evading the Sherman antitrust law since the day they went into business, a lot of men who have been successfully evading the Federal Trade Commission Act, the Clayton Act, and the Robinson-Patman Act, consider themselves completely honest, legitimate men. They consider that they are being persecuted because they are not allowed to discriminate in order to rob the American public. Unfortunately those men have been permitted to get away with these practices for so long, they now consider it to be their legitimate right to evade and violate our antitrust laws. Those industrial giants come to us now, Mr. President, as wolves in sheeps' clothing. They come to us acting through legitimate but misguided labor representatives. They come to us forcing before them small-business men who are at their mercy in that they must acquire their product and their supplies through the same monopolistic concern. Like the wolf that ate grandma, they come to us in disguise, bent upon destroying the small-business man, and yet using him as the bait, the cat's paw, to put over their evilly conceived design.

I have been contacted by representatives of great cement companies. I was told by one man that he could not compete in Louisiana unless Congress passed a law to legalize the basing-point system. That is not true. If his cement company wants to sell cement in Louisiana all they have to do is to reduce their price. They may even absorb freight, so long as they do not do it in a monopolistic manner for the purpose of arriving at the identical cement price that Lone Star Cement Co. is selling cement for in Louisiana.

That is one thing they do not want to do. They do not want to give us a chance ever to get a competitive bid on cement.

On the other hand, I was contacted by a vice president of the Lone Star Cement Co. I told him that the representatives of other mills stated that the Lone Star Cement Co. had a local monopoly. So far as I am concerned, it can have it. We will never get a better price, any way, if the cement is not sold in competition. He said, "After all, I do have a monopoly in your State, but if you maintain the antitrust laws the way they have been interpreted by the Supreme Court, we will have to build a cement plant in west Texas."

I said, "What is the matter with that? It might give the people some lower cement prices."

He said, "No; you do not understand. Cement is a mass-production product. In order to produce and sell it cheaply and in order to make a good profit, I have got to produce a great amount of cement. Sometimes I overproduce, and that means that I have got to take a loss."

It apparently never occurred to that man that he might reduce his price and sell more cement.

Of course, there is no other purpose in the practice than to see to it that the public never gets the benefit of any reduced cement prices. It is my contention that if we pass this bill the practice will be continued. A very excellent recommendation for breaking up the practice was made by the temporary National Economic Committee, very ably headed by the senior Senator from Wyoming [Mr. O'MAHONEY]. The committee arrived at a unanimous report in regard to this matter, and I should like to read from page 33 of the final investigation of the concentration of economic power:

Extensive hearings on basing-point systems showed that they are used in many industries as an effective device for eliminating price competition.

I think we will all agree on that. The committee further said:

During the last 20 years basing-point systems and variations of such systems, known technically as zone-pricing systems and freight-equalization systems, have spread widely in American industry.

Many of the products of important industries are priced by basing-point or analogous systems, such as iron and steel, pig iron, cement, lime, lumber and lumber products, brick, asphalt shingles and roofing, window glass, white lead, metal lath, building tile, floor tile, gypsum plaster, bolts, nuts and rivets, cast-iron soil pipe, range boilers, valves and fittings, sewer pipe, power cable, paper, salt, sugar, corn derivatives, industrial alcohol, linseed oil, fertilizer, and others.

The elimination of such systems under existing law would involve a costly process of prosecuting separately and individually many industries, and place a heavy burden upon antitrust enforcement appropriations.

This recommendation was made approximately 8 years ago, and since that time final results have been obtained. A case, after 14 long years, was finally won.

I read further:

We, therefore, recommend that the Congress enact legislation declaring such pricing systems to be illegal.

Because such systems have resulted in uneconomic and often wasteful location of plant equipment, it is recognized by this committee that the abolition of basing-point systems should provide for a brief period of time for industries to divest themselves of this monopolistic practice.

The committee is not impressed with the argument that a legislative outlawing of basing-point systems will cause disturbances in the rearrangement of business through a restoration of competitive conditions in industries now employing basing-point systems. Such disturbances may be costly to those who have been practicing monopoly. But the long-run gain to the public interest by a restoration of competition in many important industries is clearly more advantageous.

Mr. President, I am in agreement with that recommendation. That is what I think we should do. I am opposed to the basing-point pricing system. I fear, and my fear is confirmed by others who have an understanding of the matter, that this system would be legalized by section 1 of the bill.

I should now like to speak briefly on the Carroll amendments. As this bill was originally introduced, it would have had the effect of absolutely destroying the Robinson-Patman Act, in my opinion, at least, as to a large number of the purposes of the act.

I have here a committee report on the Robinson-Patman Act at the time it was passed, and the idea behind that act was that it would strike at the basing-point

system; further, that it would protect the little independent merchants of the country who were being driven out of business by the giant chain stores.

How was that happening? The evidence in the hearing showed at that time that in many respects the great chains, like the A & P, would get a price reduction of at least 30 percent, while the storekeeper across the street had to pay the full price. Obviously, he could not compete. He could not afford to pay 30 percent more than the A & P and stay in business. He had the Clayton Act to protect him. The Clayton Act provided that one could not discriminate unless it was in good faith. For instance, Del Monte or Heinz could be selling to A & P and giving A & P a 30-percent discount. They could be called on by the Federal Trade Commission to describe what they were doing. They could say, "If we do not do this our competitor is going to do the same thing. A & P has giant buying capacity. If we do not give them this discount Heinz or some other giant business will do the same thing. That is choice business, and if we do not do it A & P will do their own processing. So we have to do this for A & P."

When asked to do it for an independent merchant they could say, "We cannot do it. Our competitor will not reduce his price to the small merchant, and we cannot afford to do it. If we did this for everybody it would drive us out of business. But we can do it for A & P in order to get their mass-buying orders into our plant." The Robinson-Patman Act was passed so that they could not do that.

If they sold to the A & P at 30-percent discount, and it could be shown that it might have the effect of driving the little fellow out of business, the independent merchant could go before the Federal Trade Commission and get a cease-and-desist order. The act did leave it open. They could choose all their own customers. These concerns did not have to sell to independent merchants if they did not want to. They could limit their business to A & P, but once they accepted the independent merchants as their customers they had to sell to them at the same prices at which they sold to others.

So, discrimination which would mean the driving of hundreds of thousands of small-business people out of business was not allowed by the Robinson-Patman Act. If one could show that by bulk delivery he could make certain savings, he could justify that practice. If he could show that there were certain savings in the cost of transportation or production that could be made, he could justify a small discrimination.

In the Morton Salt Co. case the A & P lost an important decision. There was a situation in which only five great commercial concerns of the country, among them the A & P, the Kroger Co., and others I do not now recall, were getting a discount because of quantity ordering which was beyond what anyone else could get. If one ordered less than a carload of salt, he would get one price. He would save 10 cents if he ordered so many cases a year, and if he ordered a very large amount, he would get a larger saving. The quantity in the latter case was so tremendous that even if hundreds of merchants went in together they could not get the discount; only five great concerns were able to buy in such tremendous quantities.

The case was heard before the United States Supreme Court, and they decided that that type of discrimination could not be justified. The Court said the Morton Salt Co. must prove that there was a difference in the cost of production or the cost of delivery which would justify those discriminations from which only five giant chain concerns could benefit.

Mr. President, if we pass this bill without the amendments offered in the House by Representative CARROLL we might as well forget about the Robinson-Patman Act; any discrimination in good faith can drive anyone out of business so long as a seller can say he is meeting the competition of his competitors. In other words, we can go back to the old A & P chain-store practice if we knock the Carroll amendments out of this bill. Kroger, Safeway, the American Stores, and the others that are big enough to do the giant purchasing, can destroy every independent small merchant in America.

Some may ask why the independent wholesaler is interested in this matter. Before the enactment of the Robinson-Patman Act it was proved that in many cases the chain stores were getting their commodities at 30 percent below the wholesale price. The wholesaler is not in business to help somebody else. He would like to make a little profit and mark his product up somewhat. But how is he going to stay in business if A & P has stores all over town and is getting products 30 percent below what the wholesaler has to pay for them?

One of the witnesses was a representative of the Association of Independent Wholesale Merchants. He came here to plead that this bill not be passed. He could not be heard before the committee. Unfortunately, on the House side they were in such a rush to get the bill through that when the representatives of the national wholesalers came they said, "We are limited in time. We are in a rush. We are going to hear only two Government witnesses." They heard two witnesses, Government employees, and reported the bill.

Representative PATMAN did not think that was too good an idea, and he held what have been described as "rump" hearings. He was going to give the little people a chance, regardless, and he did give them a chance to be heard, and I have here a copy of the hearings.

The national wholesalers came in and pleaded for mercy at the hands of Congress. There were also the representatives of all the independent gasoline retailers. They are about to be driven out of business, too.

Consider the present situation in Detroit—and here is a case which hinges on what Congress does about the bill we are discussing. There are in Detroit 200 company-owned stations, and about 150 independent stations. Ordinarily, one would think that indicated merely a good competitive situation. But let me go into the history. I do not have the exact figures, but I have been told by those who claim to know that the large oil companies have built but 4 percent of all the filling stations, but own 75 percent of them. It is difficult to believe, but that is what it is claimed the figures show. Mr. Lewis Ballinger, who was once with the Federal Trade Commission, claims he can prove that.

Unfortunately, in Detroit the companies have not done as well as they have done elsewhere. They have only half the filling stations, and they want to get the other half. So they are discriminating against the competitive stations. They pick out about five filling stations and sell them at about 2 cents below what they charge everybody else, and signs go up, "Pay no more. You can get gasoline 2 cents below what you pay anywhere else in town." The business doubles and quadruples, until the Federal Trade Commission steps in.

The Standard Oil Co. says, "You cannot prevent our doing this. There is a wildcat refiner who is willing to meet our price, and in order to meet competition with that fellow in this particular field we have to meet his price." They say, "Why do you not do it for your own company stations?" They say, "We have them set up under a company contract. That little independent refiner is not offering to meet this kind of price to our own station." "Well, why do you not do it for everybody else?" The Standard Oil Co. is not willing to do it for everybody else; only to these particular stations, about five of them. The effect is that all these little independent stations are going to have to go out of business.

Mr. President, the mark-up on gasoline is 3 cents a gallon. A station cannot be operated on a 2-cent or a 1-cent mark-up, and that is especially true when the competitor is buying his gasoline at a price 2 cents cheaper. The effect is that the independent gasoline men will have to go out of business.

Mr. President, the representatives of the independent gasoline dealers came to Congress, but had no success in their efforts to obtain a hearing before committees. However, they were able to place something in the record of the hearings to which I have referred. They are begging for mercy. They are pleading against Senate bill 1008. If the Carroll amendments were adopted they might protect the little independent dealers. We have finally watered down the bill a little bit, and if we can attach to it the amendment of the Senator from Tennessee [Mr. KEFAUVER], as perfected by Representative CARROLL, we will have a chance to save a few of the small-business men.

Now we understand the bill is going to conference, and we read in the press that the conferees are not satisfied with the Carroll amendment. A majority of the Members of the Senate might be in favor of the so-called Carroll amendment, and it might become a part of the bill. Failure to adopt it would mean complete violation of the party pledges made to the small-business men. We promised them we were not going to relax the antitrust laws. We promised

them we were going to close the loopholes in the antitrust laws. We promised them a vigorous enforcement of the antitrust laws. In addition, in both party platforms we talked about eliminating discrimination. Now Senate bill 1008 comes along and says the sky is the limit on discrimination. "Take out the Carroll amendment. The sky is the limit if discrimination is practiced in good faith to meet competition."

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. LONG. I am happy to yield to the Senator from Wyoming.

Mr. O'MAHONEY. I have yet to hear anyone say, "The sky is the limit. We want to throw out all protection." I am sure the Senator from Louisiana has never heard any such statment from me. Since I presented to the Senate the measure which is now the subject of debate, I do not want the Senator to conclude his speech without my saying, at least briefly, that, having listened to practically everything the Senator has said since he took the floor today, I am still convinced that his criticism of the measure is based upon fear rather than upon actuality.

The Senator has spent a considerable period during the last half hour discussing the Atlantic & Pacific Tea Co. and the effect of the bill upon it. If any independent grocer, if any competitor of Atlantic & Pacific, listened to the Senator and believed the Senator to be correct in his statements, of course, I would expect such a person to be utterly and completely confused.

I think the RECORD should show that not a single section of the measure now under discussion has anything to do with section 3 of the Robinson-Patman Act, which is the section of that act which was drafted precisely for the purpose of meeting the conditions and abuses which A & P committed. I would be the last person in the world to forgive or place any umbrella over the abuses that were committed by that chain store. I assure the Senator and the Senate that section 3 of the Robinson-Patman Act is not affected in any way, shape, form, or manner by any section of the present bill.

Section 3 of the Robinson-Patman Act, which, of course, is the act of June 19, 1936, reads as follows:

SEC. 3. It shall be unlawful for any person engaged in commerce, in the course of such commerce, to be a party to, or assist in, any transaction of sale, or contract to sell, which discriminates to his knowledge against competitors of the purchaser, in that, any discount, rebate, allowance, or advertising service charge is granted to the purchaser over and above any discount, rebate, allowance, or advertising service charge available at the time of such transaction to said competitors in respect of a sale of goods of like grade, quality, and quantity; to sell, or contract to sell, goods in any part of the United States at prices lower than those exacted by said person elsewhere in the United States for the purpose of destroying competition, or eliminating a competitor in such part of the United States; or, to sell, or contract to sell, goods at unreasonably low prices for the purpose of destroying competition or eliminating a competitor.

Any person violating any of the provisions of this section shall, upon conviction thereof, be fined not more than $5,000 or imprisoned not more than 1 year, or both.

That law remains absolutely undisturbed.

I beg the Senator from Louisiana to remember the conditions under which the present bill was proposed. There were all sorts of interpretations made of the decision in the Cement case. When I stood upon the floor of the Senate recommending the enactment of Senate bill 1008 in the form in which it passed the Senate, I referred to the Cement case, and I stated then as I state now, and as I stated at the time the Cement decision was handed down, that, in my opinion, the interpretations which were being made of that decision were altogether wrong. I cited that day the identical bids of the cement companies. The Senator will find them in the CONGRESSIONAL RECORD of June 1.

I said then, and I say now, that identical prices of the nature which were proved by the Federal Trade Commission in the Cement case are to my mind conclusive evidence of collusion. To prove collusion it is not necessary to have a written document. One can prove collusion by the inescapable inference from economic facts; from the identity of bids all over the United States. Nothing in the present bill affects that in any way whatsoever.

I grant, Mr. President, that there has been good faith misunderstanding, I think, misinterpretation, of some parts of the bill, particularly section 3. As the Senator from Louisiana knows, I have repeatedly stated that so far as I am concerned, I would be very happy indeed to have section 3 deleted from the bill completely so that there would be no question about the interpretation of the section upon what has been known as the Standard Oil case. But I want to say to the Senator that in the Standard Oil case there is language which to my mind makes it highly desirable, in the interest of the antitrust laws, that we should enact legislation of this kind. In that case, handed down by Judge Minton, of the circuit court of appeals, the difference was pointed out between the word "may" and the word "will." I accepted the amendment of the Senator from Tennessee [Mr. KEFAUVER] because I have known of his loyal devotion to the maintenance of the antitrust laws over a long period of time.

I believe that he likewise knows of my devotion to the antitrust laws. But in that case it was pointed out that under the law as it now stands—and I would not change that law except in connection with the absorption of freight and the delivered-pricing system—it is not necessary to prove an actual injury to commerce. It is only necessary to show that an injury may result.

My feeling in this case is that it is extremely important for the preservation of the antitrust laws in the United States that businessmen of good will and good faith shall not be led to believe that the antitrust laws can be enforced in such a way as to enable the Federal Trade Commission to place inhibitions of any kind upon the expansion of business by an interpretation of the law which might result in an investment in good faith being held to be a violation of the law.

I have personal knowledge of a particular case which brought this legislation home to me. In the State of Wyoming development was undertaken of a natural deposit of trona. I described this at the hearing. Nature has performed in its own laboratories a chemical operation which, by the synthetic process, industry has spent millions to do. An effort was being made to develop this trona, from which soda ash can be made, and put it into competition with the synthetic product of existing industry. That was to bring new business into existence. That was to create competition. But when those who were in charge of that business and the lawyers who were required to advise as to the investment of capital in excess of $1,000,000 to develop this deposit read the statement of Mr. Wooden, as quoted in the hearings, that the only safe course for a new industry would be to adopt the mill net-pricing system, of course their reaction was perfectly plain. In Wyoming, with its population and its market, there is no possibility of selling enough of this material even to recoup a fraction of the capital investment. If this industry is to be built it will be necessary for us to be able to meet the markets of our competitors, wherever they are in the United States; and to do that we must absorb freight. We must be free to sell at delivered prices.

Members of the Federal Trade Commission have assured me, just as the Senator from Louisiana himself stated was his belief, that nothing in the existing law condemns freight absorption per se, when it is not a part of a conspiracy, expressed or implied.

Mr. LONG. Mr. President, will the Senator permit me to answer his statement? He asked me to yield so that he might ask me a question. I shall be happy later to listen to his interpretation.

Mr. O'MAHONEY. I asked the Senator to yield to me for a comment or two. I knew that it was not in accordance with the strict rule of the Senate, but I knew that the Senator was in no danger of losing the floor, so I undertook to make a few observations.

Mr. LONG. I shall be happy to remain and listen to the Senator's interpretation of this subject. I should like briefly to answer the points he has in mind.

In the first place, there is no doubt in my mind that the senior Senator from Wyoming is in all sincerity proposing what he believes to be good legislation. In my opinion, if there were only two Senators in the Senate, the senior Senator from Wyoming and the junior Senator from Louisiana, there would be no doubt that we could arrive at a statute upon which the two of us could agree. Unfortunately, there are many other Senators in the United States Senate——

Mr. MYERS. Unfortunately? [Laughter.]

Mr. LONG. For the purpose of this bill alone.

Mr. O'MAHONEY. Now I understand why the Senator has reached the conclusion which he has expressed on the floor of the Senate.

Mr. LONG. In regard to section 3, it applies to a discrimination which is arrived at for the specific purpose of destroying or eliminating competition. I should judge that would be a very difficult section to administer, because we must look to the purpose in a man's mind.

Mr. O'MAHONEY. I understand that it has been used, and very effectively.

Mr. LONG. I am of the opinion—and I believe I am supported in my opinion by the Representative from Texas [Mr. PATMAN], who was the sponsor of the Robinson-Patman Act—that this legislation would have the effect of absolutely nullifying many of the prohibitions against discrimination. Let me quote from the House committee report——

Mr. O'MAHONEY. May I tell the Senator why I do not think so?

Mr. LONG. Let me complete this point. I quote from the report of the House Judiciary Committee. I shall read only a small excerpt. This statement was made at the time the Kefauver amendment was stricken from the bill. This is the House Judiciary Committee speaking:

> The bill as thus amended makes the meeting of competition in good faith a full defense to a charge of price discrimination.

That is what the House Judiciary Committee thought of this bill when it recommended that the Kefauver amendment be eliminated.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. LUCAS. Mr. President, there is not a single Republican on the floor. It might be a good time, by unanimous consent, to abolish the Republican Party. [Laughter.]

Mr. O'MAHONEY. Mr. President, I rise to point out to the Senator from Illinois that we are all in the hands of a good Republican from Indiana [Mr. CAPEHART], who is now presiding over the Senate.

Mr. LUCAS. I was talking about the Republicans on the floor of the Senate. I appreciate the fact that we have a stalwart in the chair.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. O'MAHONEY. Let me say to the Senator that the sentence which he has just read, when taken out of its context, is, of course, such as to lead to the interpretation for which he is contending.

Mr. LONG. I suggest to the Senator that he try to find anything in the context which is contrary to what I have read.

Mr. O'MAHONEY. I know that the Senator has not taken anything away from the statement, but this is a part of the report on this particular bill, so it must be interpreted within the structure of the bill itself.

I submit that what the author of that report meant to say was that freight absorption and delivered prices, as dealt with in sections 1, 2, and 3 of the bill, with the Kefauver amendment, reestablished that good-faith defense. I agree that that probably would have been the effect of the Kefauver amendment. That is the reason why I accepted the Kefauver amendment, and believed that the Kefauver amendment, or words to that general effect, should be retained. But my point now is that that language is not to be read as indicating that this bill abolishes the Robinson-Patman Act. It does not. It merely says that, in the first place, delivered prices and freight absorption shall not be illegal, and shall not be considered unfair practices under section 5 of the Federal Trade Commission Act; and that, with respect to the Clayton Act, within the terms of sections 2a and 2b, they shall not be in violation of the law when practiced in good faith.

If I could have my way and have section 3 taken out of the bill, and if the bill consisted of sections 1 and 2, and the section on definitions, I think we would have legislation dealing with the fundamental need of industry at this time, which is a clarification of the situation so that businessmen who are acting in good faith, businessmen who want to comply with the law, and businessmen who want to compete, will not be torn asunder in their judgments and prevented from investing capital in building up new competitive industry in the United States by the diverse opinions which have come from the highest authority — attorneys of the Federal Trade Commission saying directly opposite things, the Supreme Court of the United States dividing 4 to 4. When that happens, does it not clearly follow that the businessman who is acting in good faith is not asking too much of Congress when he turns to us and says, "Please clarify this so that I may act"?

Mr. LONG. As I have told the Senator from Wyoming on previous occasions, if all we wanted to do was merely to clarify the law, I would be heartily in accord and ready to go along. But unfortunately, every time I study this bill, I find some very able attorneys who believe, with me, that in section 1 and in section 2, when we eliminate the amendments which it is proposed to strike out, and in section 3 we are going to permit practices which will mean the elimination of competition and the destruction of many small-business people.

So far as the trona industry in Wyoming is concerned, there is no doubt that those engaged in that industry can absorb freight half way around the world if they wish to do so. But if we arrive at the conclusion that that company can absorb freight in such a way that it and its competitors will arrive at an identical price at every point, I think that practice should be outlawed.

Mr. President, those monopolies have been working a long time to escape the enforcement of these laws, and we must work hard to break up this practice.

Mr. DOUGLAS. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. GRAHAM in the chair). Does the Senator from Louisiana yield to the Senator from Illinois?

Mr. LONG. I yield.

Mr. DOUGLAS. The Senator from Wyoming referred to the 4-to-4 decision by the Supreme Court of the United States. Is it not a fact that that decision was in the Rigid Steel Conduit case, which was decided last spring?

Mr. LONG. That is correct.

Mr. DOUGLAS. And is it not a further fact that in the Cement Institute case the Supreme Court divided 5 to 3? So there was not a completely equal division.

Mr. O'CONOR. Mr. President, if I may interrupt, let me point out that in that case the Supreme Court divided 5 to 1, with two Justices abstaining and one dissenting.

Mr. DOUGLAS. That is even better.

So it was after the decision in the Cement Institute case that the propaganda began to the effect that the law should be changed and that there should be new legislation. So the propaganda arose following the Cement Institute case, did it not?

Mr. LONG. I agree.

Mr. President, all attorneys seem to agree about the meaning of the statute, and their interpretation of it is the same as mine and the same as the one reached by the Senator from Wyoming. When I discussed it with the attorneys in the antitrust section of the Department of Justice, they agreed with my interpretation, too. So where all this alleged confusion can arise, I do not understand.

We must realize that the Steel Trust and the Cement Trust have been hard at work to convince someone else, someone who was a legitimate competitor, that the law should be opened up wide enough to clarify it so as to make them feel safe if they continued their former practices.

Mr. President, if we do not clarify the law so as to permit the continuation of monopolistic practice which has been so prevalent, it will be the biggest disappointment the Steel Trust and the Cement Trust ever have had in their existence.

Mr. HUNT. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HUNT. Speaking of the Cement Trust, let ms point out that at Laramie, Wyo., during the war a cement company was organized, and a plant was constructed with an outlay of over $2,500,000. Under the recent decision, the trade area for that plant is limited to a little over 100 miles, an area in which there is no demand for the product of that plant. So if the present law and decisions stand, and if the situation is not corrected by new legislation, the only large cement industry we have in Wyoming will have to go out of business.

Mr. LONG. Mr. President, I wish the Senator from Wyoming could have been here to hear every word of my speech, because if he had, I might have convinced him. But I say to him that I believe someone has been giving him and other persons considerable misinformation in regard to what I propose.

The Supreme Court's declaration is that it is all right to absorb freight if there is competition, but not if there is no competition. In other words, we in Louisiana will be tickled to death to have freight absorption if we are given a little benefit from competition, real competition, competition in prices. But no one seems to know anything about absorbing freight and also giving a competitive price.

Mr. THYE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. THYE. The farm machinery manufacturers, the manufacturers of road machinery, the manufacturers of refrigerators, and many other manufacturers whom I could mention, are very much concerned with the same question with which the fertilizer manufacturers are confronted. I think there is an absolute need for clarification of the entire question by means of legislation. I said definitely, at the time when the Senate acted on the question the first time, that they had arrived at a very happy and sound decision on the entire question.

Mr. LONG. Mr. President, I have here a Law Review article which is very clear. I do not believe any attorney who reads that article could fail to have a rather clear understanding of what the statutes mean, as interpreted by the Supreme Court. I believe that anyone who would read the book by Dr. Machlup would have a clear understanding of what the law is.

So, Mr. President, it seems to me that the issue here is, Are we going to "clarify" the law in such a way as to allow the basing-point system to slip through it, or are we going to outlaw the basing-point system, in order to gain the benefits of competitive American enterprise?

The Steel Trust and the Cement Trust are praying from day to day that they will succeed in obtaining the passage of a law which will "let them in." But so far as the individual business people are concerned, I have yet to find one legitimate independent businessman who has asked me to vote for Senate bill 1008.

Mr. President, I yield the floor.

Mr. O'MAHONEY. Mr. President, if the Senator will pardon me for a moment, I should like to refer to the TNEC report from which the Senator has quoted. The Senator from Louisiana was kind enough to refer to the recommendation of the Temporary National Economic Committee with respect to the outlawing of the basing-point system. It was significant, by reason of the fact that I was chairman of the TNEC and I agreed to that recommendation.

The Senator from Louisiana apparently was under the impression that the recommendation was such that I met myself coming back when I presented this bill. Mr. President, I do not interpret it in that fashion at all.

Has the Senator read the specific language which I wrote into that report, namely, that it would be necessary, in any legislation to outlaw the basing-point system per se, to prescribe a period of time during which industry might readjust itself to the change? The Senator will recall that language, I am sure. It was written there because I realized, and the TNEC realized, that if an order or directive or decision of the Court were rendered which compelled an immediate change, it would have an adverse effect upon our economy.

The point here is that in the interpretations of the law which were handed down by Mr. Wooden, when he said that the only safe practice for an industry to pursue now was to adopt the mill net as a pricing system, that was a declaration that the system must be changed overnight. I submit, Mr. President, that the bill does not change the system at all. It leaves it still for Congress to enact any legislation it pleases.

With respect to the basing-point system itself, as has been said here today, it is an utter and complete misnomer to refer to this bill as a basing-point bill. It is not. It is a bill designed to say in simple language—and I think it does say in simple language—that the independent adoption of absorption of freight, or the independent adoption of delivered prices, when not a part of a monopolistic scheme is not in violation of law. The Kefauver amendment made that, I thought, particularly clear with respect to sections 2 and 3, and that was the reason I accepted it upon the floor and gladly, in order to take it to conference.

I hope that when the bill goes to conference it will come out with the Kefauver amendment, or with language which does substantially the same thing, because the purpose was to attain two objectives; first, to make it clear to men of good will that what the Senator from Louisiana says and what I say and what members of the Federal Trade Commission have said, that the independent absorption of freight, the independent absorption of a delivered pricing system, is not a violation of law; and secondly, that it will make it clear to the monopolists that in so declaring, we are not opening the door to monopolistic practices, and we intend to make certain that the anti-monopoly laws shall be enforced against every conspiracy, express or implied, to exploit the people of the United States.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. LONG. If I still have the floor, I will answer the Senator's statement, before I yield. I would say that in my opinion the bill legalizes the basing-point system, unless a conspiracy is proved. I see nothing in the bill any different from the Sherman Antitrust Act, that would create a presumption that even identical bids mean that the bidders are in a conspiracy. If it is in the bill I should like to find it.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CAPEHART. I believe the Senator has stated he has not received any requests from the so-called small-business men of his State, and I am not certain whether he made any reference to——

Mr. LONG. I have not received any requests from any small-business men who are vitally interested in this bill. I have received communications only from cement companies, from the paper companies, the paper mills in my region, and also from certain labor organizations, who have been prompted by the paper companies to write me on behalf of labor, telling me of their fear that the paper mill is going to move out. All I can say is, if they are going to leave all that wonderful timberland in that area, I should like to let some of my friends know it, so they can have a chance to buy some of it.

Mr. CAPEHART. Does the Senator recognize the following-named unions in his State, who either wrote letters or sent telegrams, or appeared in person before the Committee on Interstate and Foreign Commerce?

Foreman's Local Wire Mill, 515, Bastrop, La.

International Association of Machinists, Webster Local Lodge 1036, Springhill, La.

International Brotherhood of Electrical Workers, Local 1390, Springhill, La.

Mr. LONG. They are all from Springhill and Bastrop.

Mr. CAPEHART. I continue:

International Brotherhood of Paper Makers, Local 382, Bastrop, La.

International Brotherhood of Paper Makers, Local 398, Springhill, La.

International Brotherhood Pulp, Sulphite, and Paper Mill Workers' Union, Local 437, Springhill, La.

Local Union 610, Springhill, La.

Pelican Local 408, Bastrop, La.

Mr. LONG. I can explain that very easily. I am certainly glad the Senator raised that question. Reference is made to Bastrop and Springhill, La., where the International Paper Co. has two of its greatest and most profitable mills. I had to write those people, because they wrote me. I say no small-business man has written me about this. Those are labor organizations. They represent men who work for the paper companies, men who fear the paper companies will leave Louisiana if this bill is not passed legalizing the basing-point system.

I know about the paper company, for I attended its centennial celebration last fall. Those mills are the most profitable in the world. I do not think the paper companies are going to move away from the most profitable mills in the world. Personally, I am willing to call their bluff.

In my State there is a severance tax, which is not required in other States. When we levied the tax, certain oil companies said they would pull up their tubing and piping and leave Louisiana. They did not leave. But I wish to compliment the paper company on being able to get the laboring people to write. They have such wonderful relations with their unions that they can get the unions to stooge for them, get them to write to me, left and right, send an absolute deluge of telegrams, in which the labor unions plead for us to save and preserve the monopolistic pricing system under which American consumers are being robbed every day. The same people are located at Bastrop and Springhill, where there are two enormously profitable paper mills. I am proud to have them in my State. I wish we had more like them. But, so far as the effect of the law is concerned, the complaint is not a legitimate one. The letter-writing campaign has been promoted by the very same people, and I believe we could actually find that some of those who have written these letters to me and to other Senators would be willing to concede that the letters were written at the instigation of the International Paper Co.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. LONG. I yield for a further question.

Mr. CAPEHART. Does the Senator feel that, if those two paper mills in those towns were denied the right to absorb freight, they would be able to compete in the markets of New England, the Chicago market, and elsewhere, with mills located in those areas?

Mr. LONG. Certainly. As a matter of fact, I should be glad to give the Senator a very interesting example of what happens there, with respect to these mills. I am not sure they are doing it now, but it has been a practice in the country for many years, although I could not say these particular mills follow the practice. The manufacturers of paper can take their raw paper and make cardboard out of it. They must pay for a long haul in order to get their products to market. They say to a man, "If you locate in New York or around St. Louis, we will absorb the freight. The man in St. Louis or in New York will pay the same price and sell for the same price that you could if you were right across from our plant entrance." So, what do they do? They take this semiprocessed material, ship it north, and absorb the freight. That makes our State a very poor location for a processor of the crude paper manufactured by the company. Absorbing the freight to points north, gives northern processors the advantage.

Mr. THYE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. THYE. I believe the Senator from Louisiana said he had not heard from any small-business men. Is that correct?

Mr. LONG. Not in favor of the bill.

Mr. THYE. I want to say to the Senator from Louisiana I have heard from the manufacturers in my State and in adjoining States. I have heard from manufacturers of culverts in my State and adjoining States. I have heard from the manufacturers of implements. I have heard from the manufacturers of fertilizer. I have heard from numerous other small-business men in my State, who say, "Unless the question is clarified, we are going to have nothing but a chaotic reshuffling of businessmen in the United States." And it will be chaotic, too.

Mr. LONG. If the Senator would like to read a courageous statement by a labor representative, I suggest he look into the Senate hearings on this bill, where a representative of the steel workers says the men are being told the industries will be moved all over the world. For example, a representative of the CIO steel workers came before the committee, in favor of the bill, and when he was asked, "Why is it that a lot of these little steel producers are in favor of this bill?" He said they were under pressure to do that.

Mr. CAPEHART. Is the Senator referring to Brubaker?

Mr. LONG. That was Brubaker's statement. That is correct.

Mr. CAPEHART. If the Senator wanted to tell the whole story, I am sure——

Mr. LONG. I certainly would like the Senator to assist me.

Mr. CAPEHART. The Senator would say that when Brubaker finished his statement, in answer to a question from me as to whether he was in favor of permitting the seller to absorb freight, equalize freight, or to pay all the freight, his answer was, "Yes; of course." He was in favor of it.

That is all in the world we are trying to do by means of this bill. That is all anybody has had any intention of doing.

If there is anything written into the bill other than that, it should be taken out. The author of the bill is a great lawyer. He should know what he is doing. I defy anyone to prove that anyone connected with the legislation has not had the most honest motive, and that was to clarify the law so that the big-business man and the little-business man could know whether they could or could not absorb freight. That is the whole problem. Mr. Brubaker, in direct answer to my question, said he was in favor of permitting every seller to absorb and equalize freight.

Mr. LONG. I would not question Mr. Brubaker's statement. I do not want to put words into his mouth, but I would personally interpret them to mean that he interprets the law just as I do, and that is that one can do just as much absorption as he wants to, so long as it is not done in such a manner that it amounts to price fixing.

The International Paper Co. is one of the giant beneficiaries of the monopolistic basing-point system, and it is wild to get the bill passed. It will not recommend it to me, because it might arouse my suspicion. So they will get every labor union in the State to contact me.

Mr. ROBERTSON. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. ROBERTSON. When this bill was before the Senate, the Senator from Wyoming [Mr. O'MAHONEY] took an active part, and he finally accepted an amendment offered by the Senator from Tennessee [Mr. KEFAUVER]. I assumed that those two Senators, who had given much more time, thought, and study to the subject than I had, had a bill which would fully protect from any violations of the antitrust laws.

Will the Senator tell us, if he knows, the present position of the Senator from Wyoming, as to whether we should adopt the House amendments and not send the bill to conference, or whether he would prefer to send the bill to conference?

Mr. LONG. I was working with the Senator from Wyoming [Mr. O'MAHONEY] and I thought there was a fairly good prospect that we could work out something on which he and I could agree. I did not know whether any other Senators would agree, but just about that time, prior to sending the bill to conference, without any notice, the distinguished Senator from Nevada [Mr. MCCARRAN] had the bill sent to conference.

Mr. ROBERTSON. Will the Senator give me a direct answer to my question as to the present attitude of the Senator from Wyoming?

Mr. LONG. I suppose the Senator from Wyoming would like to see the bill go to conference; I do not know. I should like to see a vote taken on the floor of the Senate. There has never been a yea-and-nay vote on the bill, which I consider a violation of the party pledge. We amended the bill, and I had to make a special speech to let it be known that I had not voted for the bill. I hope that this time we may have a yea-and-nay vote on it.

Mr. MYERS. Mr. President, will the Senator yield?

Mr. LONG. I yield the floor.

Mr. MYERS. Mr. President, first, I should like to compliment the very able Senator from Louisiana on his magnificent presentation of the subject. I assure the Senator that I share his views with regard to monopoly, and I share his view that the antitrust laws certainly should be strengthened and not weakened. However, I disagree with him in his particular view on this proposed legislation and what the results will be.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. MYERS. I yield.

Mr. LUCAS. I should like to make one observation. I hope the Senator will permit questions only, instead of permitting Senators to make speeches in his time. There have been 4 hours of debate, and one Senator has held the floor all that time and has been kind enough to yield to other Senators who have made long speeches in his time.

Mr. MYERS. I shall certainly try to abide by the admonition of the majority leader. Unfortunately, I must leave for Pittsburgh, Pa., the scene of much of this controversy, late this afternoon, in order to attend the annual State convention of the American Legion, Department of Pennsylvania, and therefore I may not be present if there is a yea-and-nay vote late this afternoon or tomorrow, as has been suggested by the junior Senator from Louisiana. But in order that my position may be made clear, I think I should take a little time to present my views on this proposed legislation.

Mr. President, the issue before the Senate is whether or not Senate bill 1008, the so-called basing-point bill, is to be accepted by the Senate in the amended version which passed the House, or whether the bill is to go to conference where differences in the Senate and House versions can be resolved and a compromise reached.

I think it might be appropriate at this time to give a very brief résumé of what has happened on this legislation up to now. The need for clarification of the antitrust laws was strongly indicated more than a year ago in the opinions of members of the Supreme Court in the Cement Institute case where a group of cement manufacturers were held guilty of antitrust violations for systematic use of freight-absorption practices for the purpose of establishing identical delivered prices under an agreement which was held to be clearly collusive—held to be a conspiracy in restraint of trade.

The issue in that case was not whether the independent use of delivered pricing including freight absorption was or was not illegal. The issue was collusion. The issue was conspiracy. The issue was identical pricing resulting from such collusion and conspiracy. Delivered pricing and freight absorption

entered into the case only insofar as they were instruments in effectuating an identical price conspiracy.

That was the issue in the case, the whole issue. However, in handing down its opinion in the case, the court made several broad statements under the heading of dicta, casting a cloud over the probable legality of delivered pricing involving freight absorption.

Immediately after this decision came down a wave of concern swept over much of the business world, the manufacturing world, as to the direction in which the Court might be heading on this issue. Speculative interpretations ranged so far beyond the Court's decision as to imply that the Court would eventually find to be illegal any and all instances of freight absorption involved in delivered prices—in other words—mandatory f. o. b. mill net pricing. Much of the steel industry, which up to then had been absorbing freight, changed over to a straight f. o. b. pricing system.

It was a good time for the steel industry, from the standpoint of its own profits, to adopt such a policy whether the policy was in fact one which would be required by the force of law in subsequent Supreme Court decisions. Steel was still scarce, and there was a terrific seller's market. By converting to mill net pricing, the freight costs, which steel had been absorbing out of profits, were passed on in full to the consumer, and the profit per unit of steel rose accordingly.

The Senate took cognizance of the situation, of the confusion engendered by various interpretations of the Supreme Court attitude, by establishing a subcommittee of the Senate Committee on Interstate and Foreign Commerce, to investigate the whole problem. Hearings were held during a great portion of last year. It is interesting to note that most of the witnesses who appeared before the subcommittee directed their testimony largely to the point that mandatory f. o. b. pricing or prohibitions against any and all freight absorptions would lead to a great geographic upheaval and to serious harm to innumerable individual firms.

In the meantime, the Seventh Circuit Court of Appeals handed down a decision in the Rigid Steel Conduit case which held, among other things, that a number of firms, not parties to a conspiracy as such, were guilty, however, of antitrust-law violations for having absorbed freight in order to match the delivered prices of competitors in various market areas. The circuit court held that in matching the competitors' prices, which were allegedly fixed through collusive agreement, the firms not parties to the agreement itself were participating in a general plan to restrain trade. I might say, in passing, that the Antitrust Division of the Department of Justice had indicated last year that it did not believe any new legislation was necessary, at least until such time as the Supreme Court should pass upon the Steel Conduit case.

When this circuit court decision came down, the drive for clarification of the antitrust laws on this matter of freight absorption reached a new pitch, and new hearings were conducted by the Senate subcommittee early this year.

It was at that point that I introduced S. 1008 as a moratorium against any antitrust prosecutions for good faith, independent, noncollusive freight absorption practices. The purpose behind that moratorium bill was twofold: To reassure businesses built on a delivered pricing foundation involving freight absorption that if their pricing methods were in fact independent and noncollusive they had no fear of antitrust prosecutions therefrom during the operation of the moratorium; at the same time giving the Congress a specified period—I suggested 2 years—in which to make a thoroughgoing review of our patchwork of antitrust laws for the purpose of determining where they overlapped and where they stood in conflict.

S. 1008 was introduced after it had become obvious to me and to many others interested in this issue that permanent legislation seeking to deal with the specific problem of freight absorption appeared impossible of enactment in this session. It appeared obvious at that time, I might note, that no suitable language was available which was satisfactory both in clarifying the freight absorption issue and also in protecting the antitrust laws against dangerous weakening.

S. 1008 was introduced, not because permanent legislation was not desirable, but because there seemed to be no way of resolving the conflicts over the language of such legislation.

I felt, and many Senators agreed with me—and the Department of Justice believed, too—that the Supreme Court would dispose of many of our questions in connection with this matter in reviewing the seventh circuit court decision in the Rigid Steel case.

The moratorium, as much as anything else, was designed to allow the court to hand down that decision without leaving a vacuum on the matter of freight absorption in the interim period. S. 1008, which had first been approved by the Commerce Committee, was subsequently reported favorably by the Senate Judiciary Committee, just about an hour or so before the Supreme Court announced its vote in the Rigid Steel case. That vote, it will be recalled, was an even split of 4 to 4, with Justice Jackson not participating. As a result of the High Court's failure to decide the issue, the circuit court decision became controlling.

I have no intention today of reviewing the complexities of the various decisions and opinions bearing on this issue and on side issues injected into the matter by decisions of the seventh circuit in the Standard Oil of Indiana case and of the first circuit in the Tag Manufacturers case. All I need say, I think, is that there is now, as of this moment, complete and utter indecision and conflict among the courts as to the legality of independent actions among firms in competing among themselves in distant markets, pricewise, through the use of delivered pricing involving freight absorption.

Mr. LONG. Mr. President, will the Senator from Pennsylvania yield?

Mr. MYERS. Certainly.

Mr. LONG. According to what I quoted from the Loyola Law Review, as well as the official declaration of the Federal Trade Commission, it is my understanding that as yet not one businessman has been prosecuted who was independently, and in the absence of collusion, absorbing freight; that all prosecutions occurred in instances in which there actually was collusion, but that it was necessary to prove some of that collusion by the effect of what was being done rather than by actually finding a monopolistic agreement signed by the parties. Does the Senator know of any independent person who has ever been prosecuted before the Federal courts, or before the Federal Trade Commission, when he was actually independently, and in good faith, absorbing freight?

Mr. MYERS. Of course not—as yet.

Mr. LONG. Then what is the Senator worried about?

Mr. MYERS. We have to worry about the future. Of course there have been no such prosecutions. But in the Seventh Circuit Court case itself, the Steel Conduit case, I repeat, the court held that in matching commodity prices which were fixed through collusive agreement the firms, though not parties to the agreement itself, were participating in a general plan of restraining trade. So the language of all these decisions, I think everyone must admit, is confusing.

I may say that I have a great respect for the Antitrust Division of the Department of Justice. They have been severely criticized by many foes of antitrust laws, and many advocates of monopoly throughout the country, for their prosecutions, and for their attempt to give effect to the antitrust laws. I think the Antitrust Division of the Department of Justice deserves high praise. Yet the Antitrust Division has said there is need for some clarification, and they have no objection to this bill. They have not come before the committees and objected to the proposed legislation. In every instance of legislation which is termed an attempt to break down the antitrust laws we have found the Department of Justice before the congressional committees protesting, and objecting to such legislation. They have not done that in this case.

There has been discussion of lawyers. I have great respect and regard for the lawyers of the Department of Justice, and I am willing to take their word that the proposed legislation in nowise breaks down the antitrust laws or weakens them, or gives any great hope to the monopolistic interests of America, as the junior Senator from Louisiana thinks the legislation does.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. MYERS. Certainly.

Mr. LONG. Does the Senator agree with that phase of the committee report of the House Committee on the Judiciary in which it was stated that they proposed to make the defense of meeting competition in good faith a complete defense to a charge of discrimination that would lessen, reduce, or destroy competition?

Mr. MYERS. If the Senator will hear me out, he will know that I have no objection to the Kefauver amendment and no objection to the Carroll amendment, but I think the bill should go to conference, and should be worked out there. I am not in disagreement with the Senator in that respect.

Mr. LONG. Does the Senator know that the leading attorney for the Antitrust Division of the Department of Justice went before the House Committee on the Judiciary and actually recommended that the Kefauver amendment be stricken from the bill, which that committee used as a basis for recommending striking the amendment? And does the Senator know that the House would not hear to that on the floor of the House? In the light of those facts, they felt that to strike that amendment and refuse to accept the Carroll amendment would mean discrimination which would destroy a great deal of small business.

Mr. MYERS. I have a high regard for Mr. Bergson; I think he is a high-class public servant, and has been a "trust buster." I am not familiar with the testimony before the House committee. But I am not arguing against the Kefauver amendment or the Carroll amendment, as the Senator will find if he will hear me out. But I believe the bill should go to conference, because there are such deep cleavages on both sides. I do not think the conferees will seek to take advantage of those who are propounding the theory of the Senator from Louisiana or the Senator from Tennessee. I have confidence in the conferees who will be appointed, and I am sure they will bring back a bill which may very well clarify all these matters which disturb some of us so much.

Mr. KEFAUVER. Mr. President, will the Senator yield?

Mr. MYERS. Certainly.

Mr. KEFAUVER. As I understand the Senator, he does not feel then that section 1 of the bill would do away with the use of economic evidence as proof of violation of antitrust laws?

Mr. MYERS. No.

Mr. KEFAUVER. That is, the Senator feels that evidence that companies are quoting the same prices down to the fraction of a cent, or that they put out rate books to cover their operations, or other evidence which is necessary in order to prove a case of this kind, would still be the basis for proof of violation of the Federal Trade Commission Act?

Mr. MYERS. Certainly. I think the Court was absolutely correct in the Cement case. There is no doubt there was collusion in that case.

Mr. KEFAUVER. I take it the Senator also feels that oppressive actions, or monopolistic actions, or actions in restraint of trade, or actions of "price leader" type that would set the pattern for others to follow, and which others would follow, and other price-restraining practices are also to be included in the prohibitions carried in section 1 of the bill?

Mr. MYERS. Mr. President, I do not know that I fully understand the Senator's question.

Mr. O'MAHONEY. Mr. President, will the Senator yield so I may attempt to make an answer to it?

Mr. MYERS. I yield.

Mr. O'MAHONEY. I will say to the Senator from Tennessee that in my opinion the proviso in section 1 would certainly maintain the situation as it exists at this moment with respect to any sort of a combination or agreement or understanding which would be in restraint of trade or to fix prices. I think it is in error to imagine that in order to prove an agreement it is necessary to prove a written agreement. Agreements from time immemorial have been oral as well as written, and if there be an oral agreement to violate the antitrust laws, to restrain trade, to fix prices, to engage upon any oppressive practice, any evidence to show that such a conspiracy or combination existed, even though there was not a line of writing, would be perfectly acceptable.

Mr. KEFAUVER. I appreciate the observation of the distinguished Senator from Wyoming. I take it the Senator from Pennsylvania agrees that in respect to restraints of trade or monopolistic practices there very seldom is anything in writing; that such practices are always worked out orally or by following a common pattern.

Mr. MYERS. That is very true.

Mr. KEFAUVER. And there is no intention in section 1 to prohibit the making out of cases of violation of the antitrust laws on the basis of economic evidence? Is that correct?

Mr. MYERS. Yes.

Mr. KEFAUVER. Section 1 provides:

> It shall not be an unfair method of competition or an unfair or deceptive act or practice for a seller, acting independently, to quote or sell at delivered prices or to absorb freight.

Then follows a brief proviso:

> *Provided*, That this shall not make lawful any combination, conspiracy, or collusive agreement; or any monopolistic, oppressive, deceptive, or fraudulent practice, carried out by or involving the use of delivered prices or freight absorption.

I take it the distinguished Senator from Pennsylvania does not want to make lawful anything that is now prohibited by the Robinson-Patman Act or the Sherman Antitrust Act or the Clayton Antitrust Act or the Federal Trade Commission Act?

Mr. MYERS. I certainly share the views of the junior Senator from Tennessee in that respect.

Mr. KEFAUVER. And that this prohibition against certain actions is wide enough to cover any type of activity which might be condemned or prohibited by the language I have just read?

Mr. MYERS. Yes, absolutely.

Mr. KEFAUVER. The distinguished Senator spoke of the difference between the House and the Senate amendments on the theory that those differences and the cleavage, are so great that the bill should be sent to conference.

Mr. MYERS. No. The Senator misinterpreted my remarks. I mean the cleavage is so great—and I will come to that point in a moment—that some are of the opinion that unless the House amendments are accepted we should have no bill, and others are of the opinion that unless the bill goes to conference and the Carroll amendment or the Kefauver amendment are stricken out, we would be better off without a bill. I am not speaking of the differences between the Kefauver and the Carroll amendments.

Mr. KEFAUVER. I understood that the Senator some time back said he was of the opinion that the House amendments ought to be accepted, and that they were satisfactory.

Mr. MYERS. No, I did not say that. I said that I had no particular objection to those amendments, but I think in order to get legislation during the present session of Congress the bill should be sent to conference. I am coming to that in a few moments, and I desire to address myself to this subject for only a few minutes more.

Mr. KEFAUVER. I thank the Senator.

Mr. MYERS. It is all right for individual lawyers to have their own individual views as to the necessity or lack of necessity for clarifying legislation. It is not all right, however, when business engaging over long years in certain methods of pricing—I refer to independent pricing, independent freight absorption—always heretofore regarded as legal, cannot have any definite assurances, that is binding assurances, that such practices are in fact legal today.

Largely because of the initiative—I am still continuing on the history of the legislation—and enterprise of the Senator from Wyoming [Mr. O'MAHONEY] regarded as the outstanding foe of monopoly in the United States Senate, and the willingness of other Senators, such as the chairman of the Senate Committee on Interstate and Foreign Commerce, the Senator from Colorado [Mr. JOHNSON], the Senator from Maryland [Mr. O'CONOR], who reported S. 1008 on behalf of the Senate Judiciary Committee—that is the original moratorium bill—the chairman of that committee [Mr. MCCARRAN], myself, and several others, to sit down together and thrash this problem out, we were able to agree on substitute permanent type legislative language for the moratorium bill. The language may not have been the proper language; probably other phraseology would have been preferable, but the purpose of the language was clear enough to clarify the legality of good faith, independent, noncollusive, competitive, freight-absorption practices. There is and was no intention whatsoever to kill, cripple, or weaken the basic structure of the Robinson-Patman Act or the Sherman or Clayton Acts. The effort was to save the essential purposes of those historic acts by assuring them sufficient flexibility in a fluid and expanding economy. Rigidity, lack of flexibility, would do more to kill those laws to protect small business and the consumer against monopoly than any bill such as S. 1008. Our laws must not only be drawn to accomplish a desirable purpose; they must be drawn so that they can operate in a practical and reasonable manner. Otherwise, faults here or there based on inflexibility and unreasonable

devotion to a word or phrase in all of its twisting and tortured legal construction, inspire and fortify malicious attempts to destroy the basic law itself.

We have no desire and no intention of accomplishing any such thing.

When the amended version of S. 1008, representing the O'Mahoney substitute was before us for a final vote, amendments were submitted designed to prevent the language of this legislation from being interpreted as a death blow to the basic principles of the Robinson-Patman Act having to do with price discriminations and monopolistic attacks on the ability of small business to compete with big business through illegal discounts and discrimination. That language was agreed to in the Senate after explanatory debate. The bill went to the House.

The House Judiciary Committee struck out this additional language dealing with the Robinson-Patman Act on the grounds that it was unnecessary in accomplishing the purpose it sought to assure, and, further, that it would lead to new confusions and indecision. The House refused to accept the committee's recommendations. In addition to insisting that Robinson-Patman Act guaranties be written into the bill, the House adopted new and more far-reaching language on this matter.

Today we have a determined attempt to persuade the Senate to agree completely with the language inserted on the House floor and to pass the bill in final form as it passed the House.

I oppose that procedure. I oppose it because I am convinced that the House language, as it presently stands, is not sufficiently clear, and carries in it implications perhaps not desired by its sponsors but which point to grave and serious conflicts.

I have received from individual businessmen in Pennsylvania, from firms which are importantly involved in this matter of freight absorption, flat statements that S. 1008, as amended by the House, would be worse than no bill at all.

Contrariwise, I have received from numerous small-business men throughout the State flat and unyielding assertions that unless the House version is agreed to by the Senate, S. 1008 must be killed.

Both sides, I believe, take extremist views. Yet both are based, I am sure, on good legal advice. Obviously, good lawyers disagree violently on a matter which some among us here today seek to persuade us is a clear and simple thing.

I shall not be present late this afternoon or tomorrow when the roll is called. As I have said, I must attend the American Legion State convention in the western part of my State. But if I were present I would vote to send this bill to conference because I have faith in the democratic processes of American constitutional government. I believe that by refusing to accept the House language, and by sending the bill to conference, the Senate will not be striking a blow at small business, killing the Robinson-Patman Act, or inviting monopoly to exercise its power over all American enterprise.

Quite the contrary. I think the conferees, under the stress of a need for agreement and for compromise, will come forward with language which they and we can be sure accomplishes the purposes which all of us seek to accomplish in this legislation—to clarify the issue of independent freight absorption for purposes of competition in distant markets, while at the same time guaranteeing the essential protection of the Robinson-Patman Act against a back-door assassination.

Any Senator who maintained that a conference committee could not be trusted to look into this matter carefully, objectively, and honestly would be implying, I think, that the congressional form of government in the United States cannot work in the public interest. I am sure no Senator believes that either House should dictate to the other. I am sure that no Member of the Congress believes that the action of either House must be compelling for no other cause than lack of confidence in the system of conference resolving our differences.

Therefore I say, let us send the bill to conference, and let the conferees bend their energies to the formulation of language which means exactly what all of us want it to mean, which carries in it no hidden jokers, no undesirable implications. Certainly, with the progress that has already been made resolving the conflicts in this legislation up until now, through give and take, and through an honest effort to work together in resolving a complex matter, conferees can reach such an agreement.

If the conference report does not satisfy us, if the conference report can be interpreted by businesses engaging in freight absorption honestly and legitimately as a blow at their legitimate methods of pricing; if the conference agreement on the other hand can be interpreted by small business as tearing the guts out of the Robinson-Patman Act prohibitions against unfair price discrimination, then both the House and the Senate will once again have the opportunity to debate the issue fully and to thrash out the merits of the conference agreement. The conference report can be accepted or rejected. If rejected, the conferees can be sent back to work a second time. There is protection here for all sides in sending the bill to a conference. There is on the other hand no protection by agreement to the House version at this time for those who maintain that the unclear language of the House bill threatens us with another merry-go-round of indecision, chaos, and confusion.

Mr. DOUGLAS obtained the floor.

Mr. LONG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Chapman	Ecton
Anderson	Chavez	Ellender
Baldwin	Connally	Ferguson
Brewster	Cordon	Flanders
Bridges	Donnell	Frear
Butler	Douglas	Fulbright
Byrd	Downey	George
Cain	Dulles	Gillette
Capehart	Eastland	Graham
Green	Lucas	Robertson
Gurney	McCarran	Russell
Hayden	McCarthy	Saltonstall
Hendrickson	McClellan	Schoeppel
Hickenlooper	McFarland	Smith, Maine
Hill	McGrath	Smith, N. J.
Hoey	McKellar	Sparkman
Holland	McMahon	Stennis
Humphrey	Magnuson	Taft
Hunt	Malone	Taylor
Ives	Martin	Thomas, Okla.
Jenner	Maybank	Thomas, Utah
Johnson, Colo.	Miller	Thye
Johnson, Tex.	Millikin	Tobey
Johnston, S. C.	Morse	Tydings
Kefauver	Mundt	Vandenberg
Kem	Murray	Watkins
Kerr	Myers	Wherry
Kilgore	Neely	Wiley
Knowland	O'Conor	Williams
Langer	O'Mahoney	Young
Lodge	Pepper	
Long	Reed	

The PRESIDING OFFICER. A quorum is present.

Mr. LUCAS. Mr. President, will my colleague yield, to permit me to propound a unanimous-consent request?

Mr. DOUGLAS. I yield.

Mr. LUCAS. I ask unanimous consent that at not later than 2 p. m. tomorrow the Senate proceed to vote, without further debate, upon the pending motion to reconsider the vote sending Senate bill 1008, the basing-point bill, to conference.

Mr. HILL. Mr. President, reserving the right to object, let me inquire whether the distinguished majority leader has talked to the junior Senator from Tennessee [Mr. KEFAUVER] about this matter.

Mr. LUCAS. No, I have not; but we have just had a quorum call.

Mr. HILL. I know he is anxious to speak on this subject. He is just outside the Chamber, with some constituents, I understand.

I wonder whether the Senator from Illinois will withhold the request until the junior Senator from Tennessee is present.

Mr. LUCAS. I understood that the Senator from Tennessee would probably speak for an hour or an hour and a half. I believe. Is that correct?

Mr. DOUGLAS. That is my understanding.

Mr. HILL. I do not wish to object, Mr. President; but I am sure the junior Senator from Illinois will be glad to yield at any time, so that the request may be renewed, after the junior Senator from Tennessee can be consulted.

Mr. DOUGLAS. Yes; I shall be glad to yield at any time.

Mr. LUCAS. Very well; I withhold the request.

Mr. DOUGLAS. Mr. President, I rise to support the motion of the junior Senator from Louisiana to reconsider the vote of the Senate on the motion of the Senator from Nevada on the basing-point bill, by which the bill was sent to conference. I wish to say that I think the entire Senate and the entire country owe a great debt of gratitude to the distinguished junior Senator from Louisiana [Mr. LONG] for the energetic way in which he has addressed himself to this issue and for the extraordinarily able speech he has made on it today. If this motion of Senator Long is approved, as I hope it will be, I plan to move then that the Senate refuse to agree to the

House amendments and refuse to appoint conferees. I shall do so because although I think the so-called Carroll amendments do appreciably improve Senate bill 1008, nevertheless even with the Carroll amendments so much opportunity will be afforded for violations of the Sherman antitrust law, the Federal Trade Commission Act, the Robinson-Patman Act, and the Clayton Act, that I think we would be better off without any bill at all.

Of course, if my motion were to prevail, that would have the effect of killing the bill and leaving matters in their present form.

I do not believe either the Congress or the people of the United States are completely aware of the consequences of this proposed legislation. Most of us, I am sure, have strong opinions in favor of our antitrust laws—the Sherman Act, the Clayton Act, the Federal Trade Commission Act, and the Robinson-Patman Act. Yet I am convinced that the passage of this proposed legislation would be not only a major set-back to small business and to our antitrust policies, but also a resounding victory for the monopolists and the cartels. Why? Because it would make legal one of the handiest of monopolistic weapons, a club which could be wielded by big business to keep their smaller competitors under control and to destroy any semblance of price competition in many areas.

The parliamentary history of this bill was discussed earlier in the afternoon, and I do not propose to go into it in too great detail.

When the Senate was first confronted with this issue, it was in the form of the original S. 1008, the price practices moratorium bill. This bill was vigorously attacked by the junior Senator from Oregon [Mr. MORSE] and the senior Senator from North Dakota [Mr. LANGER]. These remarks were directed against the original bill, however, and were not completely applicable to later developments.

The distinguished Senator from Wyoming [Mr. O'MAHONEY] then offered his substitute which was principally intended to legalize these pricing practices in question so long as there was no evidence of collusion. After some discussion, primarily with the junior Senator from Louisiana [Mr. LONG] and the junior Senator from Tennessee [Mr. KEFAUVER], the Kefauver amendments were accepted and the bill was passed by a voice vote. It passed without the benefit of either a quorum call or a roll call.

Mr. President, I am discussing this now because we did not have adequate time on June 1 to debate and to comprehend the substitute measure proposed by the able Senator from Wyoming. I want to make it clear that I understand and thoroughly appreciate the worthy motives which caused our distinguished colleague to offer his substitute. I am sure that he wanted to prevent outright conspiracies of different firms to fix prices through the basing-point system and at the same time to legitimatize the practice of many competitive concerns in charging uniform prices in different sections of the country and of absorbing differing transportation costs in order to do this.

PRICING PRACTICES WHERE QUALITY COMPETITION EXISTS

I am convinced—and say this with all the emphasis I can command—that the Senator from Wyoming was acting in good faith in what he was seeking to do. What I think he was trying to do was to take care of the following situation:

There are numerous trade-marked products which are advertised for sale to ultimate consumers and to retailers in different parts of the country at the same price all over the country. This is done even though the goods are shipped different distances, have to pay differing transportation costs and hence net the manufacturers differing amounts at the mill. Examples of this are Hershey bars, which sell for a nickel or a dime all over the country, though made in Pennsylvania; chewing gums, cigars, soap, cosmetics, drugs, shirts, soft drinks, and so forth.

Now, I think it should be realized that nearly all of these items are trade-marked, and sold with a great deal of national advertising. Furthermore, these items are subject to intense quality competition with rival products, as well as price competition, and I do not think that competition is appreciably reduced because of the practice of having prices uniform over the country for that particular product, even at different places of sale. To have Hershey bars sell for a nickel in far-off Seattle as well as in nearby Harrisburg does not really interfere with competition. For the Hershey bars compete both in quality and in price with other chocolate candies, with gum, and with many other candies as well. This is true of other trade-marked products.

PRICING PRACTICES IN STANDARD COMMODITIES A DIFFERENT STORY

But, as a matter of fact, the Federal Trade Commission has never proceeded against such uniform prices of trade-marked products, and there is no prospect that it ever will. The whole furor that has been aroused amongst the producers of these trade-marked consumer goods has as a matter of fact been artificially created by a very different set of producers.

These are groups who have been stifling price competition between firms in thoroughly standardized commodities where there is little or no quality competition and where competition in price is about the only competition that matters. These are goods such as steel, cement, lead, steel pipe and conduits, corn sirup, beet sugar, some forms of lumber, and brass, and other things I could add. It is among these groups that the Federal Trade Commission has moved to protect competition and the ultimate consumers. It is these groups who, in turn, have stirred up a hornet's nest, and who are fighting behind the skirts of such trade-marked products as the Hershey bar to legitimatize their own monopolistic pricing policies. If I may commit something of an Irish bull, I would say that steel and cement are indeed hiding behind the skirts of the Hershey bar.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield for a question.

Mr. CAPEHART. Why are not steel and cement entitled to as much protection under the law as are Hershey bars?

Mr. DOUGLAS. I have tried to say Hershey bars are trade-marked; they compete with other confections; they do not cover the full range of candy products, and there is competition therefore in the whole field of candy and chocolate; but in the case of steel, what we have is a standardized product where quality differences do not exist, where the only competition we could have would be on the basis of price, and where we have, as I think I shall be able to show, if the Senator will be good enough to let me continue, a combination between all the producers of steel to charge identical prices within a given locality, not uniform prices all over the country, but identical prices within a given locality.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield for a question.

Mr. CAPEHART. The Senator, by his own admission, referring I suppose to homogeneous items, such as steel and cement, has suggested that the only possible way they can compete is on price.

Mr. DOUGLAS. That is correct.

Mr. CAPEHART. They are all the same, therefore they should all sell at the same price, should they not?

Mr. DOUGLAS. The Senator is not so naive as he represents himself to be, because in a very few moments I am going to describe precisely how this identity of price in given localities is arrived at, and if the Senator will be good enough to wait for that point, I think I shall satisfy him on that score. The Senator is a very deep student of this question. I have read the hearings he has conducted. He knows how the price of steel is fixed in Indianapolis.

Mr. CAPEHART. Go ahead. The Senator has the floor. He seems to know everything there is to know about it.

Mr. DOUGLAS. No, I do not. I certainly do not, and I do not pretend to do so.

Mr. CAPEHART. If the Senator wants an argument and a fight, I will be very happy to give it to him. The Senator seems to be inviting it.

Mr. DOUGLAS. I only fight in a good cause. If the Senator wants to take me on while I am defending a good cause, I am willing.

Mr. THYE. Mr. President, will the Senator yield for a question?

Mr. DOUGLAS. I yield.

Mr. THYE. Why do we hear complaints coming from the manufacturers of culverts, road machinery, and farm implements of all kinds, and refrigerators, and from the pulp mills which process paper of all grades and specifications? Why do they all bring forth the criticism and the fear that unless there is some correction of this entire question there will be nothing but chaotic confusion in the minds of businessmen, and ultimately there will have to be a relocation of business firms all over the United States? I do not believe the Senator wants to suggest to us anything which will produce a chaotic condition.

Mr. DOUGLAS. I think I shall develop the reasons, but in general it will be

found that a great many business firms dread competition. They give verbal allegiance to the principle of competition, but they dread the practice of competition, and the basing-point system gives them a sort of easy life, something behind which they can hide. I shall develop that a little later.

Mr. THYE. Mr. President, will the Senator yield further?

Mr. DOUGLAS. I am glad to yield.

Mr. THYE. I do not believe it is competition they fear. It is the fact that it is utterly impossible for a manufacturer doing business in one State, having to depend on all the other States in the Union for his market. I could very easily conceive of that if he did not have to ship across the continent and seek his markets all over the Nation, he would not then have a concern with respect to the basing-point question.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. DOUGLAS. I am glad to yield.

Mr. LONG. Would not this be a pretty obvious explanation? Take those making concrete, for example. Has the Senator been told by those people that if they were cut off from their supplies they would have to go out of business in times of cement shortage? Is not that a pretty good reason why the little fellow who is getting cement from the cement trust would be willing to go to bat, and willing to make a request for the passage of any kind of bill the Cement Trust would like to have?

Mr. DOUGLAS. The small firms tend to take their cues on legislative procedure from the big companies. The big firms call the tune pretty well.

As I was going to say, the principal method which these monopolists and quasi-monopolists use to strangle price competition is the basing-point system—and it is this which the O'Mahoney substitute, although drawn with the best of motives to protect the producers of trademarked products, would inadvertently sanctify.

I am sure that this was no part of the intention of the Senator from Wyoming but it will be no less surely its effect, as I propose to show. In view of the long and honorable record of the Senator from Wyoming in opposing the spread of monopoly in all its forms, I am sure that in opposing it I am only doing what he would wish me to do.

WHAT IS THE BASING-POINT SYSTEM?

Now what is this basing-point system which is used as an easy device to suppress price competition? I can best illustrate it from the well-known practice in the steel industry known as "Pittsburgh plus," and which became celebrated a quarter of a century ago, and which first attracted public attention to this practice. Here it was the practice of the United States Steel Corp. to announce a price for steel of so much a ton at Pittsburgh and then to charge prices at other places equal to the Pittsburgh price plus the freight from Pittsburgh to the place in question. It did this for all steel and steel products regardless of where the steel was actually produced. The so-called "independent" companies in the industry followed suit and took the price of big steel as their own. Thus in 1922—and I am using actual prices—Big Steel set the price of steel bars in Pittsburgh at $38.08 a ton. The freight rate from Pittsburgh to Chicago was $7.62, and the price in Chicago was, therefore, fixed at $45.70, which was equal to the Pittsburgh price of $38.08 plus the Pittsburgh-to-Chicago freight rate of $7.62.

United States Steel has a big steel mill in Chicago itself and one in Gary, 30 miles away, which at that time was probably the most modern and efficient in the world. There were also several independent mills of high efficiency in and around Chicago. All of these, however, charged the same price of $45.70 at Chicago. The Gary mill which was producing steel at an appreciably lower cost than the Pittsburgh mills of Big Steel nevertheless sold its steel to local customers for $7.62 more than the Pittsburgh mills realized. The independents did the same. None of the steel mills would permit the buyers of steel to take delivery at the steel mills on f. o. b., but made them accept the steel delivered at the buyers' own doors. In doing so the buyers had to pay "phantom freight" from Pittsburgh to Chicago. As a matter of fact there was very little of the Pittsburgh steel which moved to Chicago so that freight charges were almost entirely fictitious and phantom.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. JOHNSON of Colorado. Of course the Senator realizes that there is nothing in Senate bill 1008, as originally introduced by the Senator from Wyoming, which permits phantom freight. That is an integral part of the basing-point program and the basing-point system. The Senator refers to what this bill permits as the basing-point system. Of course, it is nothing of the kind, because in a basing-point system there must always be a phantom freight provision. That is not in this bill at all. Therefore this bill is not a basing-point bill, but is a freight-absorption bill, which is a far-different thing. I know the Senator has made a great study of Pittsburgh-plus. I do not know of anyone in business or in the Congress who supports the Pittsburgh-plus system. Certainly the bill which the Senator from Wyoming introduced does not attempt to legalize in any way that system. I do not know of any business in this country that wants to return to the old Pittsburgh-plus system of doing business, the old multiple basing-point system which was put into effect, with all its evils.

Mr. DOUGLAS. I am sure that neither the Senator from Colorado nor the Senator from Wyoming wants to do it, but I am afraid that will be exactly the consequence of section 1 and section 2 of this bill, if the bill becomes law.

Mr. LONG. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. LONG. Under Senate bill 1008, if the Gary mill should set its price at $7 a ton higher than the Pittsburgh price, and Pittsburgh and Gary absorbed in order to meet each other's price, there would be the same effect as phantom freight, because they could continue to reach the same result as through the old Pittsburgh-plus deal.

Mr. DOUGLAS. The Senator is correct.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. CAPEHART. They could be prosecuted, could they not?

Mr. DOUGLAS. I think it would be very difficult to prosecute them successfully.

I have always been very kind, on the few occasions when the Senator from Indiana has spoken, and have not interrupted his flow of thought. If I may have a few minutes to develop the trend of my thought, I shall then be very glad to yield.

Further, Chicago steel moved eastward as well as westward and, for example, supplied much of the Fort Wayne, Ind., market. Here the Chicago mills sold their steel for a price of $44.58 which was the Pittsburgh base price of $38.08 plus the freight rate from Pittsburgh to Fort Wayne of $6.50. This was actually $1.12 less than in Chicago, but since they paid $4.93 a ton for freight from Chicago to Fort Wayne, this meant that they were actually netting at their own mills only $39.65 a ton on steel sold to Fort Wayne customers whereas they netted $45.70 or $6.05 more on steel sold to Chicago purchasers.

This was a clear case of price discrimination against Chicago customers in favor of customers located nearer to the Pittsburgh basing-point.

Whenever we find these clear cases of price discrimination, they are a pretty good indication that it is a monopolistic practice, particularly when the differences are accounted for by freight rates and nothing else.

Moreover, by keeping prices higher in Chicago and points west than they would have been under conditions of competition, steel fabricators and consumers were compelled to pay much higher prices than would otherwise have been the case and monopoly profits were increased.

MULTIPLE BASING POINTS

In 1924 the Federal Trade Commission ordered the steel industry to discontinue the Pittsburgh plus system. United States Steel in a somewhat patronizing attitude agreed to abide by this decision insofar as it is practicable. It then proceeded to set up multple basing points. This was in effect no real change in the basing-point system itself, but merely diffused the basing points over a wider area. Several cities would be chosen as basing points, and prices in a given locality were fixed as the sum of the price at the nearest base, plus the freight from the basing point to the locality in question. In other words the multiple basing-point system was essentially the same as the single basing point, only a bit more diffused and with some relief given to consumers west of Pittsburgh.

Of course, the differential between the Pittsburgh base and the Chicago base under the multiple-basing-point system was less than it had been originally. In

fact, the system of Pittsburgh-plus pricing was put on a regional basis. While some consumers benefited, price competition was still suppressed, and the basing-point system was the instrument by which the system of monopolistic practices continued to be fastened upon the industry.

THE CORN PRODUCTS CASES

Now let me take another more recent illustration, namely, that of glucose or corn sirup as shown by the decision of the Supreme Court in the Corn Products and Staley cases in 1944. Here the Corn Products Refining Co. fixed a price at Chicago of $2.09 per 100 pounds of glucose, and prices elsewhere amounted to the Chicago price plus the freight from Chicago to the place in question. The freight from Chicago to Kansas City was 40 cents a hundred, and although the Corn Products Co. had another plant in Kansas City, which was presumably as efficient as its Chicago plant, it sold its glucose or corn sirup there for $2.49. This was, in other words, the total of the Chicago price of $2.09 plus the phantom freight of 40 cents.

The freight from Chicago to Springfield, Mo., was also 40 cents, so the Kansas City plant also sold its glucose there for $2.49. But since it cost 36 cents in freight to deliver glucose in Springfield from Kansas City, this meant that the Kansas City plant only netted $2.13 per 100 pounds for its glucose at the mill, located in the State of the distinguished senior Senator from Missouri [Mr. DONNELL] who does me the honor to listen to what I am saying.

Mr. DONNELL. Mr. President, may I ask the Senator to which Kansas City he is referring? There is Kansas City, Mo., and there is also Kansas City, Kans.

Mr. DOUGLAS. It is the Kansas City located in the State of the distinguished Senator.

Mr. DONNELL. Kansas City, Mo.?

Mr. DOUGLAS. Yes. I repeat, the freight from Chicago to Kansas City was 40 cents a hundred, and although the Corn Products Co. had another plant in Kansas City which was presumably as efficient as its Chicago plant, it sold its glucose or corn sirup there for $2.49. This was, in other words, the total of the Chicago price of $2.09 plus the phantom freight of 40 cents. That is, the glucose made in Kansas City was sold in Kansas City for $2.49.

Mr. KEFAUVER. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield to the Senator from Tennessee.

Mr. KEFAUVER. As I remember the background of the Corn Products case, during that time, when candy makers in Kansas City, Mo., were having to pay the freight from Chicago for glucose which they bought in Kansas City, which was made in Kansas City, some candy companies moved their plants from Kansas City, Mo., to Chicago in order to avoid having to pay the freight, although the product was never hauled from Chicago to Kansas City. Is not that correct?

Mr. DOUGLAS. That is correct, and I should like to point out to the distinguished Senator from Missouri that the policy I am advocating would distinctly help the State of Missouri, and that I am not defending any section in taking the position I do take.

For sales to Denver, where the freight rate from Chicago was 66 cents and from Kansas City 56 cents, the Kansas City plant delivered glucose for $2.75 per hundredweight—$2.09 plus 66 cents—and then after paying 56 cents freight, netted $2.19 at the mill. This is a further illustration of the fact that the basing-point system inevitably involves differing net prices at the mill depending on the localities to which the goods are shipped. This practice is a definite indication of monopoly pricing since differences in net price were completely explained by the delivered-price system and by nothing else.

Mr. HILL. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield to the Senator from Alabama.

Mr. HILL. Would the Senator say that every price can be explained by the factor of either freight absorption or phantom freight?

Mr. DOUGLAS. I think under the basing-point system that is true. Base prices plus freight explain delivered prices at each and every destination.

Mr. HILL. It has been suggested on the floor of the Senate several times, by Senators who are absolutely as sincere as they can be, that the bill we are discussing has nothing to do with the basing-price system. The truth is that what the bill does is to deal with the two factors which go into the basing-price system. Is not that true?

Mr. DOUGLAS. It legitimitizes the delivered prices, and the delivered price is made up of the base price, plus the freight rate from the basing point to the point where the goods are being sold and where the prices are quoted.

It is interesting that in the cases of the industries which I have investigated every price is explained by those two factors, and in some industries, as I shall show, where there are extras, variations of the product, there is a third factor, namely, the difference for the extra. That can be explained by the Book of Extras which each industry attempts to produce and which each plant attempts to have.

Mr. HILL. Will not the Senator explain what he means by "extras"?

Mr. DOUGLAS. It is where there is a variation from the main product.

Mr. HILL. The Senator means, perhaps, some byproduct?

Mr. DOUGLAS. No; not necessarily. For instance, steel bars could be the basic product; then there might be some variation.

Mr. LONG. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. LONG. In order to clarify what the Senator has in mind when he says these things can be explained, he means the identity of prices can be explained by the two factors?

Mr. DOUGLAS. The identity of prices in a given locality can be explained by the base price plus the freight rate. One way in which a so-called independent company falls in with the practice of the dominant concern was shown in the case of the Staley Co., of Decatur, Ill., a flourishing city about 175 miles south of Chicago. The freight rate on glucose was 18 cents a hundredweight from Chicago to Decatur, so the Staley Co. charged Decatur purchasers $2.27 a hundred—$2.09 plus 18 cents—for corn sirup manufactured locally and delivered locally, but, after paying 18 cents freight, delivered glucose to Chicago customers for $2.09, for which the company netted at its mill only $1.91, or 36 cents a hundredweight less than what it obtained from its local sales. Here again the company discriminated against local buyers in favor of those nearer Chicago. Rather than cause trouble with the Corn Products Refining Co., they accepted the latter's price structure.

THE CEMENT CASE

Let me take the next famous basing-point case decided by the Supreme Court in 1948, namely, the Cement case. Here it was found that in thousands of sealed, and hence assumed secret, bids for Government contracts the bids were identical down to the fraction of a cent. Thus, in the case of a Tucumcari, N. Mex., contract, 11 companies submitted bids which were identical to 6 decimal places, or to the ten-thousandths of a cent, namely, $3.286854 per barrel. This was the sum of the price at the basing point plus the freight rates from that point to Tucumcari. Now, was it a pure accident that there should be this precise agreement down to the sixth decimal place in these 11 sealed bids? The chance for that, according to a mathematician who testified on this subject, was only one out of one quintillion, or one followed by eighteen zeros.

For this and for other reasons, therefore, it was proper for the Supreme Court to rule that the basing-point system in the cement industry was in restraint of trade, and hence illegal.

NO COMPETITION IN BIDS UNDER BASING-POINT PRICING

But there is an even better illustration from my own State. In January 1947 the Illinois Department of Highways asked for bids for 50,000 barrels of cement delivered inside each of the 102 counties in the State. Eight firms presented such sealed bids. While these differed as between counties, according to the freight rates from Chicago, within each of the 102 counties all of the 8 bids were identical to the last cent. That is, the bids were identical for each county, but differed between counties. These bids were inserted in the CONGRESSIONAL RECORD by Representative PATMAN on May 31 of this year and are to be found on page A3353 and following pages.

I hold a tabulation of these bids in my hand, and if any Senator wishes to come up and inspect them, I shall be very glad to have him do so.

I asked Prof. C. O. Oakley, chairman of the department of mathematics at Haverford College, what was the chance that this identity of 8 bids in each of 102 counties was purely accidental. He has authorized me to say that this "is

about 1 chance in 8 by 10^{214} (or 8 followed by 214 zeros) chances." Professor Oakley goes on to say:

To reproduce table 1 by chance under the above simplified assumption would be far more difficult than picking out at random a single predetermined electron in the total universe.

The universe is a quite large entity; it is the entire celestial cosmos.

Mr. TOBEY. That goes further than the needle in the haystack illustration, does it not?

Mr. DOUGLAS. It is far beyond the needle in the haystack. Professor Oakley concluded:

And you may quote me on the above figures.

I have his letter here, if any Senators would like to look at it later. I shall place it on the table for inspection.

Mr. HILL. I suggest that the Senator put the letter in the RECORD.

Mr. DOUGLAS. I am very glad to do so. I ask that it be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HAVERFORD COLLEGE,
DEPARTMENT OF MATHEMATICS,
Haverford, Pa., July 20, 1949.

Hon. PAUL DOUGLAS,
Washington, D. C.

DEAR SENATOR DOUGLAS: Re: Table I, Appendix of the CONGRESSIONAL RECORD, page A3353. For Adams, the bid was No. 3.31. Suppose that competition is so stiff that each of the eight bidders has only two figures to choose from (actually, of course, under free competitive bidding, the number would be larger than two), namely No. 3.31 and one other. (It should, presumably, be near No. 3.31, say No. 3.30 or No. 3.32.) The probability that the 8 would all be the same (No. 3.31) under wholly independent and random selections is $(\frac{1}{2})^7$, or one chance in 128.

The probability that under similar circumstances 8 identical bids for a given county should obtain in each of 102 counties is $(\frac{1}{128})^{102}$. This is about 1 chance in 8 by 10^{214} (8 followed by 214 zeros) chances. To reproduce table I by chance under the above simplified assumptions would be far more difficult than picking out at random a single predetermined electron in the total universe.

And you may quote me on the above figures.

Cordially yours,

C. O. OAKLEY,
Chairman.

For 11 bidders to agree in each of 6 decimal places at 3.286854 assuming the whole No. 3 given and also that there are just two choices for each decimal place (because of stiff competition) the probability would be $(\frac{1}{2})^{60}$ or about 1 chance in 1,000,000,000,000,000,000.

Mr. DOUGLAS. Mr. President, what I have stated was not all. The Illinois Highway Department threw out those bids as collusive, and asked for a resubmission. That may have been unjust of them, but they thought it was somewhat fishy to have this precise agreement in bids, and they threw them all out.

Mr. WILEY. From what States did the bids come?

Mr. DOUGLAS. From various States. The companies were the Alpha Portland Cement Co., the Dewey Co., the Lehigh Co., the Lone Star Co., the Marquette Co.—which may have been from the region of the Senator from Wisconsin—the Medusa, the Missouri, the Universal Atlas. Those were the companies. Three months later 6 of the companies again presented their bids for each of the 102 counties. Two of them have dropped out. Once again those bids were identical within each county, though differing between counties. Now the chance would not be 1 over 8 followed by 214 zeros, but I think it would be 1 over 6 followed by 155 zeros.. That would not be the equivalent of picking one predetermined electron out of the entire universe, but it would be picking a predetermined molecule, let us say, out of the entire universe.

There is a very ironic touch to this second set of bids. The cement companies were obviously determined to teach the State a lesson for questioning the accidental nature of the first 816 bids. So they replied with 612 more identical bids, but they added a penalty of 15 cents in each case. In each case the bid was 15 cents more than it had been before.

Mr. HILL. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. CAIN in the chair). Does the Senator from Illinois yield to the Senator from Alabama?

Mr. DOUGLAS. I yield.

Mr. HILL. How many bids were there?

Mr. DOUGLAS. The first time 8 companies offered bids in each of the 102 counties, and they were identical within each county. The second time 6 companies offered bids in each of the 102 counties and those bids were identical within each county.

Mr. TOBEY. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. TOBEY. I wonder if the Senator has ever heard—I shall put it in the form of a question so as to comply with the rule. Has the Senator heard of an incident which happened some years ago in connection with the Navy Department opening bids for ships, when the public-relations man for a large shipbuilding company on the east Atlantic coast came to Washington and consulted with the Navy Department about the bids to be opened some 10 days after that time? He represented numerous shipyards. When he got all through consulting with the Navy Department he returned to New England and wrote letters to each of the shipyards he represented and told them exactly which yards had been awarded contracts for ships, and what prices would be paid for them and, lo and behold, when the bids were opened it was found that the shipyards had been allocated the ships in the number and at the prices this man had prophesied some days before.

Mirabile dictu—the Latins used to say, did they not?

Mr. DOUGLAS. Mr. President, I think one of the most shocking things is the way in which so many of these so-called secret and supposedly competitive biddings receive identical bids. The distinguished Senator from New Hampshire himself placed in the RECORD an extraordinary list of coincidences which would still further indicate the virtual arithmetical impossibility that this was pure accident. He put in the RECORD for June 1, 1949, page after page of identical bids. He had abstracts of bids to the Navy for galvanized rigid-steel conduit pipe for navy yards. On ½-inch pipe there were identical bids down to the one-hundredth of 1 cent for the Philadelphia Navy Yard. The same thing prevailed on ¾-inch pipe, on 1-inch pipe, on 1¼-inch pipe, 1½-inch pipe, and 2-inch pipe. The Senator from New Hampshire has made a real contribution by placing that material in the RECORD.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. DOUGLAS. I am glad to yield.

Mr. O'MAHONEY. Does the Senator regard such identity of price in response to an invitation for competitive bids to be substantial evidence of collusion?

Mr. DOUGLAS. The attorneys for the cement companies moved to strike this evidence as immaterial and irrelevant. They were overruled because there are now on the statute books the Sherman Antitrust Act and the Federal Trade Commission Act and the Clayton Act. But I am very much afraid, I may say to my distinguished friend from Wyoming, that if Senate bill 1008 goes into effect, when attorneys then move to strike out such evidence on the ground that it is immaterial and irrelevant their motion would be upheld, and they would point to Senate bill 1008 as proof that they were correct. Frankly, we have now struck the nub of the issue. That is why I am afraid of the bill.

Mr. O'MAHONEY. That is why I rose at this point, because I want to make the legislative record here today, as I made it on the 1st of June, that in my opinion any such identity of bids as that would be substantial evidence of the existence of a conspiracy to fix the price. I believe there is nothing in the bill which would sustain the motion of any attorney to suppress evidence of that kind.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield for a question.

Mr. MAYBANK. I should like to ask the Senator if he has any record of the enormous amount of money the Government has paid out for concrete dams and power developments? Has the Senator any record of the bids for the purchase of concrete in connection with such governmental projects?

Mr. DOUGLAS. Evidence on that subject was also placed in the RECORD and it showed a virtual identity of bids at every location, indicating a clear monopoly. There is no doubt that public authorities have paid millions and perhaps tens of millions of dollars in excess charges to the cement combination.

Mr. MAYBANK. And such operations have been delayed for years and years because of excessive bids.

Mr. DOUGLAS. Yes. State governments have also paid enormous excess sums in connection with building State highways.

Mr. MAYBANK. I remember when the South Carolina Public Utility, which was financed by the Federal Government, was built, there was not only a combination, which resulted in no reduction in

price being obtained, and also in a delay in the construction of the project itself.

Mr. HILL. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. HILL. Is it not a fact that we find in the CONGRESSIONAL RECORD of July 6, 1949, on page 8985, a statement by the Honorable Harold L. Ickes which he made when he was Secretary of the Interior before the Committee on Interstate Commerce of the Senate, in which he told the story of how much the Government of the United States and the taxpayers had suffered because of the monopolies and the price-fixing systems to which the Senator from Illinois has been addressing himself? If one reads the statement of former Secretary Ickes one will find that he referred to the Bureau of Reclamation being seriously hampered. It is a fact that when he spoke of the Bureau of Reclamation he was speaking primarily of cement and the construction of dams to which the Senator from South Carolina has referred. He also spoke about what happened under the PWA program, and what high prices the Government had to pay in connection with that program because there was no competition.

Is it not also a fact, I ask the Senator from Illinois, that he not only spoke about dams and cement and concrete, but he spoke about identical bids with reference to school equipment, typewriters, steel lockers, typewriter stands, school desks, school chairs, auditorium seats, tables, armchairs, padlocks, hospital and office equipment, fire extinguishers, classroom desks, operating-room equipment, kitchen equipment, glass and glazing, switchboard, stage equipment, lighting standards, sewing cabinets, structural steel, steel tanks, steel-sheet piling, reinforcing steel, valve boxes, turbogenerators, condensers, well drilling, fire hydrants, fire-alarm sirens, pumps, plumbing and heating specialties, feed-water heaters, aerators (sewage), pipe covering, electric transformers, cast-iron pipe, electrical cable, water meters, copper pipe, electric locomotives, stokers, machine tools, creosoted poles, filter equipment, heavy crane, tractors, transmission-line equipment?

Is it not true that Secretary Ickes spoke about identical bids for all this equipment and these many products, and how the Government suffered because of monopolies in the sale of such equipment?

Mr. DOUGLAS. That is true; and the list cited by the Senator from Alabama shows how pervasive this practice is. Moreover, it is not merely the Government which is paying them high prices. It is also the domestic consumer. The same pricing practices are being applied to him.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. HUMPHREY. With reference to the Cement Institute, or the Cement Trust, has it not been the case that this practice has been going on for at least 40 or 45 years?

Mr. DOUGLAS. That is correct.

Mr. HUMPHREY. Is there anything to indicate that the practice is going to cease?

Mr. DOUGLAS. I think that if we rigidly enforce the decision of the Supreme Court in the Cement case, possibly we can give to some of the smaller independents in the cement industry the courage really to break loose and compete.

Mr. HUMPHREY. Undoubtedly the Senator is familiar with the attempts which were made, for example, by State governments to establish cement processing plants. That was true of the State of North Dakota and the State of South Dakota.

Mr. DOUGLAS. The States will be forced into developing some form of State plants in self-defense unless the companies give up their monopolistic pricing policies. I would much prefer to have the companies give up those pricing policies rather than force the Government into business to supply its own cement. I do not want to see the Government in the cement business. I should like to see the cement business conducted competitively.

Mr. HUMPHREY. I am happy to hear the Senator from Illinois make the last statement. The question I had in mind was this: If the Supreme Court decision in the Cement case cannot be enforced, if the interpretation which the Senator places upon Senate bill 1008 would modify that decision, it seems to me that the only thing the Federal Government can do will be to establish a type of cement TVA as a yardstick to plan to break up the combine and restore free enterprise and competition. I think it is about time the monopolists grasped the fact that the Government of the United States cannot stand by idly and permit the whole area of free competitive enterprise to be destroyed, without action on the part of the Government.

Mr. DOUGLAS. I quite agree with the very excellent point made by the Senator from Minnesota. We would like to maintain a competitive business system. If business refuses to compete, if it succeeds in abolishing the laws intended to force it to compete, if it persists in monopoly and in holding up the consumer, then the Government will be driven into these types of business for itself. But I want to make it clear that I do not want to see that happen.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. MAYBANK. The statement was made that the Cement Trust has been in existence for 40 years or more. I differ with that statement, for this reason: The distinguished Senator from Louisiana referred to the activities of his father in connection with the building of roads 20 or 30 years ago. I remember the day when the Cement Trust did not exist, because cement ships came to Charleston, S. C., Savannah, Ga., Mobile, Ala., New Orleans, La., and elsewhere, and the Cement Trust could not operate so well. So a tariff was imposed on cement for the building of roads, bridges, dams, and every other public enterprise, as well as in the case of individuals constructing apartment houses and other buildings. It may not be consistent with the Senator's thought as to the existence of the Cement Trust for 40 years or more, but I have seen vessels from Antwerp and elsewhere bringing cement from Europe into the South Atlantic and Gulf ports to the cement dealers in those sections.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. CAPEHART. Is the Senator in favor of preventing the individual seller, acting independently, from paying all the freight, absorbing a portion of the freight, or equalizing the freight with any of his competitors?

Mr. DOUGLAS. I do not want to legitimatize by law the so-called individual delivered price, for this reason: If we say that we are making illegal conspiracies to fix prices in concert with others, it will be very hard to prove a conspiracy. What may seem to be an individual act may really be an act in pursuance of a common plan.

Mr. CAPEHART. Then the Senator is opposed to permitting the individual seller independently to absorb a portion of the freight or pay all of it.

Mr. DOUGLAS. I should say that we should not specifically legitimatize it by law. It should be made an administrative matter. Then the firm in question can have the protection of the courts, which will not be capricious in this matter. Our present laws are adequate to deal with this situation.

Mr. CAPEHART. Do I correctly understand the Senator to say, then, to every seller in the United States, "You may or may not be violating the law if you pay all the freight, absorb the freight, or equalize the freight?"

Mr. DOUGLAS. What I am saying is that no one has proposed that sellers of trade-marked products who have uniform prices over the country be prosecuted. They obviously absorb freight, express, and other charges. No one has proposed that they be prosecuted.

Mr. CAPEHART. Would the able Senator then suggest that we enact a law compelling all sellers to sell f. o. b. their place of business?

Mr. DOUGLAS. No. I simply propose that we enact no laws at all, but let things remain in their present condition.

Mr. CAPEHART. Would the Senator be in favor of repealing the Miller-Tydings Act?

Mr. DOUGLAS. I have distinct reservations with respect to the Miller-Tydings Act, but that is not before us for consideration at this time.

Mr. CAPEHART. The Senator understands that the Miller-Tydings Act prohibits a retailer from selling certain merchandise at less than the published list price.

Mr. DOUGLAS. I understand that.

Mr. CAPEHART. Is not that a restraint of trade? Is not that denying the public the right to a lower price?

Mr. DOUGLAS. If we were debating that subject, I will say to my distinguished and amiable friend that it might be so held. But we are not now debating that subject, and since we are not debating it, and since time is short and the

pressure of legislation on the Senate is heavy, I should like to confine myself to Senate bill 1008.

Mr. CAPEHART. Mr. President, will the Senator further yield?

Mr. DOUGLAS. I am glad to yield to the Senator from Indiana.

Mr. CAPEHART. The associate chief counsel for the Federal Trade Commission testified that it was perfectly legal for an individual seller, acting independently, to pay all the freight or absorb the freight, or equalize the freight, but that it was illegal when a majority or all the people in a given business did the same thing, even though they were not in collusion. How are wo going to handle that sort of situation, unless we go to an f. o. b. mill selling policy?

Mr. DOUGLAS. I should say that the presumption is in favor of f. o. b. selling, but that does not mean that it must be the invariable rule. In the case of the Miller-Tydings Act, which the Senator from Indiana with great adroitness drew into this discussion, I should say that if he is worried on that point, those are trade-marked products, and there is intense competition between those products on quality and price. I have reservations as to whether we should freeze the whole distributive structure; but that is not the question.

The question we have under consideration at the moment is whether there should be identical prices within a locality as between different firms. When we have identity of price within a given locality, and it can be explained by the basing-point system and the freight rates, and by nothing else, that is a very clear indication that although the boys may never eat dinner together or whisper in each other's ear what they are going to do, they can tell by the gleam in one another's eyes how they should act. While conspiracy cannot be proved, nevertheless there is a concurrent line of action. Those men are not sleepwalkers.

Mr. O'CONOR. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. O'CONOR. Let me say to the Senator from Illinois that in propounding my question, I understood him to say that he feels that no change in the present situation is necessary.

Mr. DOUGLAS. That is correct.

Mr. O'CONOR. Does the Senator mean to say by that that he thinks the law does not need clarification?

Mr. DOUGLAS. I fail to see any confusion in the law or in its interpretation. The confusion exists in the minds of those who are proposing this measure, not in the minds of the courts or the Federal Trade Commission. A mare's nest has been stirred up.

Mr. O'CONOR. Mr. President, if the Senator feels that no further clarification is necessary, what will the situation be after the court of the seventh circuit has decided the Rigid Steel Conduit case, which went to the Supreme Court, and on which the Supreme Court could not decide, but voted 4 to 4, if tomorrow another circuit court decides diametrically opposite, and if the same Supreme Court judges then render another 4-to-4 decision? Where will we be then?

Mr. DOUGLAS. In response, let me say that about 1913 the State of Oregon passed a minimum-wage law. It went to the United States Supreme Court. In 1917 the Supreme Court, as I remember, split 4 to 4, with Mr. Justice Brandeis not taking part. Was the cure for that situation to abolish all minimum-wage laws? I do not think it was. The minimum-wage laws were retained on the statute books. The Supreme Court made some decisions in the 1920's and 1930's which I think were bad decisions, throwing out the minimum-wage laws; but the Court recovered itself in 1937; and finally there was established the right of the State governments, and also of the Federal Government, to fix wages. In other words, merely because the Supreme Court splits 4 to 4 is no reason for throwing the law overboard.

Mr. O'CONOR. Then, will the Senator explain what the situation will be tomorrow, not 17 years hence, if another circuit court of appeals decides the same question in the opposite manner, and if the case then goes to the eight-man Supreme Court, presumably—with the same Justice dissenting—and results in a 4-to-4 decision, thus bringing about a situation diametrically opposite to the previous situation?

Mr. DOUGLAS. Mr. President, I am neither a prophet nor the son of a prophet. I cannot say what the Supreme Court will decide. I can only say what I think is sound public policy; and I think it is sound public policy to eradicate the basing-point system root and branch, and introduce some competition into American industry.

Mr. CAPEHART. Mr. President, will the Senator yield? I wish the Senator would point out any relationship between this bill and the basing-point system.

Mr. DOUGLAS. Mr. President, let me say to my distinguished and amiable friend, the Senator from Indiana, that I have been seeking to do that; but from time to time questions have come from various parts of the floor, and have impeded the development of my argument. If the Senator from Indiana will have patience and forbearance, I promise that in the fullness of time—and it will not be too long—the relationship will be revealed.

Mr. KEFAUVER. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. KEFAUVER. A few minutes ago, I asked the distinguished Senator from Maryland [Mr. O'CONOR] about any confusion growing out of the Rigid Steel Conduit case. I asked the Senator if the principle was not established in the Corn Products case and in the Staley case that evidence of systematic pricing methods could be used as substantial evidence for conviction under the Clayton Act. That question came up in the Rigid Steel Conduit case. There were two counts in the indictment.

Mr. DOUGLAS. That is correct.

Mr. KEFAUVER. One was based on the allegation of conspiracy. The other was that the systematic use of pricing methods in that case amounted to a violation of the Clayton Act.

Mr. DOUGLAS. That is correct.

Mr. KEFAUVER. On count 1 the defendants did not appeal, so that conviction stands.

On count 2, the Court of Appeals for the Seventh Circuit upheld the Federal Trade Commission.

Mr. DOUGLAS. That is correct.

Mr. KEFAUVER. Then the case went to the Supreme Court; and by a 4 to 4 vote the Seventh Circuit Court of Appeals was sustained.

Mr. DOUGLAS. And until that decision is reversed, that is the law of the land.

Mr. KEFAUVER. Yes; but the point is that the law is thus established that economic evidence can be used for the purpose of conviction, as in the Corn Products case and in the Staley case.

The only point involved in the discussion regarding the Rigid Steel Conduit case was whether the facts of that case came under the law of the Corn Products case and the Staley case.

So there is no confusion arising from the decision in the Rigid Steel Conduit case, although it has been made the scapegoat of this whole controversy.

Mr. DOUGLAS. I am very glad to have the opinion of the Senator from Tennessee.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. HUMPHREY. I should like to say a word in connection with the interrogation propounded by the Senator from Indiana. I wonder whether the Senator from Illinois is familiar with a statement in a speech made by Robert Freer, Chairman of the Commission, on December 28, 1948, in reference to the matter of f. o. b. prices.

Mr. DOUGLAS. No, I am not. I shall be very glad to have the Senator present it. Mr. President, I ask unanimous consent that the Senator from Minnesota may be permitted to give at this time the substance of the statement by Mr. Freer.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HUMPHREY. Commissioner Davis had this to say:

> Businessmen are scaring themselves with three ghosts: First, that everyone is required to sell f. o. b. mill; second, that to absorb freight except in isolated instances is necessarily to be guilty of unlawful price discrimination; and third, that to meet the price of a competitor in good faith is to violate the Federal Trade Commission Act. In the first session of the Capehart committee last summer four members of the Federal Trade Commission testified in effect that these statements have no substance. In a formal policy statement to the staff, released last October, the Commission reiterated this disclaimer. More recently there have been other official statements to the same effect.

Then he went on to say:

> For example, in a speech on December 28, Robert Freer, then Chairman of the Commission, said that "the law does not require uniform f. o. b. mill prices, that the law does not prevent the absorption of freight to meet competition, and that the recent decisions apply only to situations in which there is organized monopoly and conspiracy to suppress and restrain competition."

Then Commissioner Davis in his remarks went on to point out that only in

situations relative to delivered prices and identical prices and as to freight absorption had the Commission actually ruled. As was pointed out by the distinguished Senator from Tennessee, there have been only three cases which have been brought to the court, and in those three cases I think the law is relatively clear. All other cases are merely figments of someone's imagination as to what may happen tomorrow. But, Mr. President, the Senate cannot prophesy as to that. We may not even be here tomorrow. The Lord surely knows that we have to legislate for today. That is certainly conclusive.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. DOUGLAS. I shall be glad to yield to the Senator from Indiana; but let me point out that the Senator from Indiana has been complaining because I have not developed my argument rapidly enough. So if he is willing to concede the inappropriateness of that observation as an objection, I shall be glad to yield to him for a question.

Mr. CAPEHART. Mr. President, I shall ask unanimous consent—rather than to take time to read it—to have inserted in the RECORD at this point a statement made by the Secretary of Commerce, Mr. Sawyer, on September 21, 1948, in which he pointed out the seriousness of this whole situation, and recommended that every businessman in the United States appear before the committee at that time. Secretary Sawyer there states that this matter should be clarified, that there may be a great deal of hysteria, but in any event a clarification cannot do any harm, and may do some good.

I ask unanimous consent to have that statement printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. DOUGLAS. Mr. President, reserving the right to object, would the Senator from Indiana mind if that insertion appears in the RECORD at the end of my remarks, rather than in the middle of them?

Mr. CAPEHART. I have no objection, except I wish to point out that it is the opinion of the Secretary of Commerce, and I offer it following the reference to the statements by the gentleman from Delaware [Mr. FREAR].

The PRESIDING OFFICER. Without objection, the statement will be printed in the RECORD at the conclusion of the remarks of the Senator from Illinois.

(The statement referred to appears in the RECORD following the conclusion of Mr. DOUGLAS' speech.)

Mr. LONG. Mr. President, will the Senator yield?

Mr. DOUGLAS. I shall be glad to yield for a question, but I should like to point out that I am not filibustering, and I should like to conclude as quickly as possible. However, I yield.

Mr. LONG. Mr. President, actually, is not freight absorption a discrimination on behalf of the seller?

Mr. DOUGLAS. That is true.

Mr. LONG. Is it not also true that the Federal Trade Commission Act and the Clayton Act prohibit discriminations when the effect is to eliminate or prevent or destroy competition?

Mr. DOUGLAS. Yes.

Mr. LONG. Is it not further true that insofar as discrimination accomplishes that effect, the discrimination is illegal and is in violation of the antitrust laws?

Mr. DOUGLAS. That is correct.

Again, Mr. President, I wish to point out that this law does not outlaw the 5-cent charge for Hershey bars, because they compete with other candy, even though freight may be absorbed in those cases.

Mr. LONG. Is it not true that a uniform zone price for the entire United States, for the sale of Hershey bars at 5 cents throughout the United States, is no discrimination, in the sense that the Hershey bars are offered to consumers everywhere in the United States at the same price?

Mr. DOUGLAS. There might be some discrimination as between consumers in different localities; but in effect it is still competition.

(At this point Mr. DOUGLAS yielded to Mr. WHERRY, and a colloquy ensued, which, on request of Mr. WHERRY and by unanimous consent, was ordered to be printed at the conclusion of the speech of Mr. DOUGLAS.)

The PRESIDING OFFICER. May the Chair suggest that the Senator who has the floor be allowed to conclude his remarks without further interruptions, and that questions may be saved until he has concluded?

Mr. DOUGLAS. Mr. President, I appreciate that suggestion. I think Oliver Wendell Holmes began the opening chapter of his The Autocrat of the Breakfast Table with the phrase "As I was saying when I was interrupted."

Mr. President, as I was saying when I was interrupted, the fourth important case involving the basing-point system was that of rigid steel conduits which are used as containers for electrical wiring in building construction. Here the manufacturers used both Pittsburgh and Chicago as basing points. Each manufacturer had freight rate books showing the freight on these items from Pittsburgh and Chicago to virtually every delivery point in the United States. Each firm would thereupon fix identical prices for sales at given cities.

The prices were always equal to the basing point—just by accident, I suppose.

The result was that when there was bidding for public contracts the Government was once again confronted with identical bids. In the case of contracts for three Atlantic coast Navy yards, as the Senator from New Hampshire [Mr. TOBEY] brought out, these were identical down to the fourth decimal point.

I think the evidence in all these cases is conclusive. The basing-point system is a convenient method whereby firms can charge identical prices and in so doing suppress competition. Once let the leading firm in an industry declare a basing point or points, then the others get their cue. They all have freight-rate books showing freights from the basing points to the other towns and cities and they quote delivered prices by adding these on to the base price.

If this seems somewhat repetitive, it is due to the fact that I have already said some of these things in reply to questions.

If an industry produces a number of products which differ somewhat from the main product, then all the firms in a basing-point industry will have a second book, namely one which gives the additions to be made for specific extras. Firms will then quote the delivered price as, first, the base price for the main product, plus second, the "extra" price for the variation in product plus, third, the freight from the basing point to the locality where the given buyer is located. Each of the firms will then quote identical prices to that buyer. Let the leader alter the base price, then all of the sellers will immediately alter their delivered prices with the precision of a marching column of highly trained soldiers operating under a common command. There will be no straggling with some firms leading off and others delaying.

When free people cross a street, some lead off, some hang back. That indicates that they are not under common direction. But when they move with the precision of a military unit, it means that they are under a common direction. That is the way firms move under the basing-point system. The basing-point system furnishes them with the guide for their actions. They will all move together. This is not the way free men behave. It indicates instead that they are under a common direction and take their lead from a common source.

In addition, the basing point system involves additional wastes such as, first, cross-shipments of freight from A to B and B to A because the prices of different firms are the same in a given locality and are matters of indifference to the buyers; second, since prices at delivery points are figured according to railroad freight rates, there is no inducement for buyers to ask for delivery by the most economical means of transportation. In some cases this might be by water and in other cases by trucks. But since such savings will go only to the sellers, and the buyers will not profit from them, the latter will choose the fastest means of transportation, namely, by rail, even though this is not the most economical. This is directly against the national transportation policy as enunciated in 1940; third, there is a further point which I have not seen developed, but which I think is important—namely—legalizing the basing point system may make the Government liable for greater refunds under section 722 of the Internal Revenue Code which may exceed a billion dollars in refunds on wartime excess profits taxes. The Excess Profits Tax Council has issued Regulation 10 which would require businesses asking for refunds on this tax to deduct the amounts gained as a result of using illegal methods. Thus, by legalizing the basing point, firms which would ordinarily have to deduct amounts made through the use of this illegal pricing system would no longer have to do so and their refunds would have to be vastly increased. The aggregate of these increases might possibly be approximately a billion dollars.

WHY DO THE INDEPENDENTS GO ALONG WITH THE BIG FIRMS AND GIVE UP COMPETITION

Let me now ask a question which I think possibly goes to the root of this matter.

Why do independents, located away from basing points, agree to go along with the price system of the leaders, when by cutting prices close to their own mills they could get a much larger share of the business and grow? That would be the competitive way. It would be the best for the country, for it would result in lower prices, increased demand, and, hence, increased output. Their business would grow according to their ability to produce cheaply and their transportation advantages. Plants would be located according to the real advantages of location and costs. It would help the North, South, East, and West. The emphasis within businesses would be on improving efficiency and reducing costs, and not on merely combining together to fix prices. This would be better for the country, and it would open up business to managers with talent and energy. It is what people think about when they speak and write about the American system.

But the so-called independent concerns in these industries which have the basing-point practice give up this chance for freedom and, instead, accept the price structure of the big companies who act as leaders. Why do they do it? They do it because they know that if they do not, the big company will declare a punitive basing point in the home town of the independent and hence make it difficult for the independent to survive.

I can illustrate this with a simple example. Let us say that in a given industry the dominant firm located in Pittsburgh has fixed that city as a basing point with a price of $60 a ton. The freight to Chicago, let us say is $12 a ton and the Chicago price is therefore $72. But a firm of Chicago independents finds it can produce for $62 a ton and it cuts the price below $72, down to $65. The big firm then adds Chicago as another basing point and fixes $64 as the price and takes the local market away from the independent. If the independent goes still lower, the big company will go lower still and can virtually wreck the smaller firm. In other words, the basing-point system which is a highly efficient way of enforcing monopoly prices and exacting high profits, is also a most effective way of punishing by regional price-cuts the firms which get out of line.

CONCURRENT ACTION NOT NECESSARILY THE RESULT OF "COLLUSION"

But perhaps the most important point I want to make is this: Concurrent action is not necessarily the result of "collusion." Concurrent action is the result of a fear on the part of smaller companies of reprisals administered by the big boys. For, if the independents were to get out of line, that is, to lower their delivered prices, the leaders could then engage in "local price cutting" and drive the so-called erring independent out of business.

Industry leaders can do this, since they can aborb losses in any one area by profits made in other areas. The small independent, having no other market areas except his own, enjoys no such advantage and soon loses his business to the leaders who can always match his prices or undersell him.

It is small wonder, therefore, that the so-called independents seldom want to take on a fight to the death with the giants and instead go meekly along with them. They give up their freedom and their chance to grow. They slacken in their efforts to reduce costs. They decide to lead the easier life. They let the big companies determine the prices and merely meekly follow suit. At times, as they applaud speeches about the advantages of competitive enterprise, they may have wistful desires for the adventurous life. But, secure under the umbrella held over their heads by the giant concerns and at least allowed to exist, the smaller firms exchange freedom for security. Probably we cannot blame them personally, any more than we could blame smaller employers who sometimes have been forced into price maintenance agreements in certain service trades such as dry cleaning by the fear of strong-arm methods used by a trade association or a union.

GOVERNMENT SHOULD ENCOURAGE FREE COMPETITION

But it should be the task of Government to free these men from these fears and enable them to compete. It is the declared policy of this Government and of the people as expressed in the Sherman Act, the Clayton Act, the Federal Trade Commission Act, and the Robinson-Patman Act to keep the channels of competition open. It is a terrific struggle to do this. The Federal Trade Commission in this effort struck at and outlawed the instrument by which monopolies and cartels were suppressing competition in many of the basic industries. The Supreme Court in a series of able decisions has upheld the Commission.

Now when the matter has been legally determined and the Court has clarified the situation, a hue and cry is raised that the Court is "confused" and that the situation should be "clarified" by this measure which, however, in effect legalizes the basing-point system. And, despite the intentions of the Senator from Wyoming, that is precisely what his substitute measure would do.

For in section 1 of S. 1008, it is stated that—

> It shall not be an unfair method of competition or an unfair or deceptive act or practice for a seller, acting independently, to quote or sell at delivered prices or to absorb freight.

And in section 2, it is stated that—

> It shall not be an unlawful discrimination in price for a seller acting independently * * * to absorb freight to meet the equally low price of a competitor in good faith.

PROVISOE IN BILL OFFER NO REAL PROTECTION

Now I know that hedging words are thrown around those provisions in section 1 and elsewhere, namely that it is "provided that this shall not make lawful any combination, conspiracy, or collusive agreements; or any monopolistic, oppressive, deceptive, or fraudulent practice carried out by or involving the use of delivered prices or freight absorption." It will, I suppose, be asked—as it has been asked by a number of distinguished Senators on the floor of the Senate—"does not this guard against the danger?" The answer is simple. It does not. For as I have shown, it is not necessary for the members of a cartel to get together in a room, or at a "Gary dinner" to plot how prices can be fixed. They can do it when widely separated, through the independent use of the basing point system. All that is needed then is for the big firm to announce its prices at a given basing point or at a series of basing points. That is surely legal. Then each firm will have its book of freight rates and of extras. It will certainly be legal for the companies to have those in their possession. Then the proposed law says that it will be proper for them "to absorb freight to meet the equally low price of a competitor in good faith."

If the leader has started off and established these prices, the firms can come down and meet them, and it will be said that they will be doing this in good faith and it will be legalized. It will be very difficult for the Government successfully to prosecute them for doing that and meeting the big firms' price at each and every locality, and thus we will legitimatize monopoly or cartel fixing of prices and we will have helped to strangle competition.

In such cases the Government can plead that the identity of prices between competitors in each and every locality is an indication of joint collusion, as the Senator from Wyoming has argued this afternoon. The attorneys for the companies will indignantly deny this and will say that the coincidence of prices is purely accidental and that the prices were set in good faith.

I once heard an able mathematician say that it was possible to seat 80 monkeys before typewriters and have them push the keys at random and after a number of years' toil to reproduce all the books in the Congressional Library. That is mathematically possible, although the chances are infinitesimal. But the chances this would happen are, to say the least, remote.

Mr. THYE. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield to the Senator from Minnesota.

Mr. THYE. Mr. President, I should like to ask the junior Senator from Illinois, just as an illustration, whether we are hitting some of the keys in this Chamber occasionally—not in the sense of the example the Senator has quoted?

Mr. DOUGLAS. The Senators means 96 monkeys instead of 80? [Laughter.]

The PRESIDING OFFICER (Mr. HUMPHREY in the chair). The Chair objects. [Laughter.]

Mr. THYE. I wonder if we could not say that in some instances we have been hitting the keys in that respect?

Mr. DOUGLAS. Mr. President, the Senator from Illinois objects to this aspersion cast on the other 95 Members of the Senate by the esteemed Senator from Minnesota.

Mr. THYE. I am not casting any reflection on them, but I say by accident

the monkeys were hitting the keys, and I was merely wondering if by any chance we might be hitting the keys in the same manner.

Mr. DOUGLAS. I sometimes suspect that if my Republican friends are ever correct it is by accident and not by design, and that any connection between themselves and the correct position is purely coincidental. [Laughter.]

Mr. THYE. I wish to say to the distinguished Senator from Illinois that the comment was meant to be somewhat humorous in nature, not to cast any reflection on him by any chance.

Mr. DOUGLAS. The Senator from Minnesota is one of the most amiable men in the Chamber, and no one ever takes offense at what he says. He was having a good time, and I was trying to refresh my somewhat drooping spirits by having a little fun myself.

Mr. THYE. I was enjoying the comments of the distinguished junior Senator from Illinois about the monkeys, and that was what prompted me to make the remark.

Mr. DOUGLAS. What I am afraid is that if we say that in good faith it is legal to meet the prices of competitors, a price leader will establish a base price, and then, with the freight rate, fix prices over the country. Then the others will fall in line without ever meeting the leader, without sitting down with him, because they have the freight-rate books, and they know that if they do not do that the big company will establish a punitive basing point in their territory and put them out of business.

S. 1008 WOULD CONFUSE, NOT CLARIFY, THE SITUATION

Supporters of the new basing-point legislation assert that in urging its passage they merely want to "clarify the situation." I have no doubt that they say this in good faith. But I also have no doubt that this is carrying coals to Newcastle with a vengeance. For the legal status of the basing-point system is clear as things now stand. This new legislation, if finally approved, could burn down what has already been established. As I have indicated, the courts have held that the system cannot be used by sellers of standardized commodities when the results of such use would be a stifling of competition. What further clarification is needed on this point? On the other hand, the Federal Trade Commission has never interfered, nor has it shown any inclination of interfering, with the use of the basing-point system in cases which involve trade in nonstandardized goods which are either trade-marked or subject to competition. What further clarification is needed on this point?

Far from "clarifying the situation," the passage of S. 1008 would merely undercut what is known and replace it with the kind of calculated confusion which lawyers and economists for the great monopolies and cartels know how to use to the advantage of their clients and to the prejudice of the public interest. Passage of this bill would enable them to raise the entire issue of the basing-point system once again. Lawyers for the monopolies will be quick to point out that the basing-point system has been legalized in principle by this bill. And having said that, they will strive with might and main to place themselves beyond the reach of the Kefauver or Carroll amendments which limit the bare-faced use of the basing-point system. They will strive for another 10 or 25 years, while the Federal Trade Commission will be forced to stand by, uncertain what it can or cannot do to stop monopolistic practices.

MONOPOLY PRACTICES INVITE BIG GOVERNMENT

What is involved in the defeat of this bill is nothing less than the maintenance of the system of free competition. It is a peculiar and sardonic fact that many of those who as businessmen, journalists, or public figures talk the loudest in support of free competition should now be working with all their strength to devise ways by which free competition can be strangled. The basing-point system is the noose which has been and is now being used to do this strangling. To require proof of collusion that this noose is tightened is a big step backward. The law in other branches has moved away from attempts to determine the motives for action to judging the consequences of action. The consequence of the basing-point system is the suppression of competition. This is just as much the result if well disciplined firms under the fear of price reprisals, carry out individually a common line of action as if they put their heads together in a dark room to plot price control.

There is one final word which I should add. Most of us are properly afraid of big and monopolistic government. We doubt its efficiency; we dislike its tendency to dry up the wells of personal initiative; we fear its concentration of power because there are few men capable of exercising such great power wisely or humanely. But the best way to avoid a further growth of big government is to restore a greater degree of competition in American business and to get the advantages properly claimed for free enterprise. For if business moves further down the road toward cartelization and to monopoly, the virtues of free enterprise will largely disappear. Reductions in costs will be slighted and higher than competitive prices will be charged. This will dampen down demand and will restrain production. This in turn will choke off production and employment and intensify unemployment. Big profits will be made by the few monopolies, but the country will decay. Whatever the evils of big government may be—and they are real—people will nevertheless turn increasingly toward it to protect them against the private monopolists. For they will feel that they can at least partially control the Government whereas they will have virtually no control over the private monopolists. And hence, by shortsightedness, the verbal advocates of free enterprise will contribute to their own destruction.

I pray to God that this may not happen and that is why those of us who oppose the basing-point bill are trying to restore competition so that these matters may be made more self-regulating and operate outside the control of both big business and big government.

(The colloquy between Mr. WHERRY and Mr. DOUGLAS, which was ordered to be printed at the conclusion of the speech of Mr. DOUGLAS, is as follows:)

Mr. WHERRY. Mr. President——

Mr. DOUGLAS. Mr. President, it seems like the old days to have the Senator from Nebraska rise to throw his darts. I am very glad indeed to have a question by the Senator from Nebraska.

Mr. WHERRY. I would not think of throwing a dart toward the Senator from Illinois, especially since he has joined the economy bloc; I certainly would be right with him on such things. I was merely going to ask him a question. Hershey bars are sold throughout the country at the same price. The Senator says that is all right, because there is competition with other candy bars. Let me suggest to the distinguished Senator that there is a large area in which steel is sold at the same price. Omaha, Nebr., is in that area. There is all kinds of competition. Dozens of steel companies want that business.

Mr. DOUGLAS. But do they charge different prices, may I ask?

Mr. WHERRY. Just a moment. Does the Senator mind if I ask the question?

Mr. DOUGLAS. Since the Senator is asking questions of me——

Mr. WHERRY. I have not finished my question.

Mr. DOUGLAS. Let me ask questions of the Senator. Why should there not be a little reciprocity on this? [Laughter.]

Mr. WHERRY. Mr. President, I have not even got to the question yet. If the Senator will give me time to ask questions——

Mr. DOUGLAS. I apologize.

Mr. WHERRY. I shall be glad to give him reciprocity. I am asking for enlightenment, upon the basis of the Senator's knowledge. I shall appreciate very much getting his answer when the time comes.

Mr. DOUGLAS. I do not pretend to know all about it.

Mr. WHERRY. Omaha, Nebr., has become a great city. Labor is employed upon the basis of being able to procure steel, with the freight absorbed, from Pittsburgh, from Chicago, or from other plants that mill steel. The local labor in Omaha in turn fabricates the steel into dozens and scores of varieties of tools, machinery, and so forth, which filter down through the retail agencies. I ask the distinguished Senator whether that is not identical with the Hershey candy-bar illustration? If the steel companies that have for a great many years furnished raw material for fabrication can no longer do it upon the basis of the freight being absorbed, what other recourse is there but that Omaha must lock up its factories or else move back to the source of steel, at Chicago or Pittsburgh, in order to get the materials for fabrication, which in turn they may redistribute through the retail channels they have developed over scores of years? That is my question. It is asked in all good faith, and I think it is a question that deserves an answer from the distinguished Senator from Illinois.

Mr. DOUGLAS. I should be very glad to try with all humility to reply to the distinguished Senator from Nebraska.

Certainly, if it were possible to get competition in the steel industry, and not have monopolistic pricing of steel, there would be a reduction in the price of steel. If some of the independents would assert themselves, the price of steel could be cut, and the steel fabricators in Omaha could obtain their raw materials at lower prices. The result would be they could pass along such lower prices to those to whom they sold, there would be an expansion of demand, and an increase of employment in Omaha.

Mr. WHERRY. Mr. President, will the Senator yield further?

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Nebraska?

Mr. DOUGLAS. I am very glad to yield.

Mr. WHERRY. Is not that exactly what would happen in the case of candy bars, if the Senator's logic is correct?

Mr. DOUGLAS. There is nothing to prohibit a Kansas City or Omaha firm from selling candy for 4 cents.

Mr. WHERRY. That is correct.

Mr. DOUGLAS. The point is, there is no agreement between the various manufacturers of candy bars to sell identical candy bars at identical prices.

Mr WHERRY. Ah!

Mr. DOUGLAS. There is no agreement so far as I know.

Mr. WHERRY. Mr. President, will the Senator yield further?

Mr. DOUGLAS. That is, unless the process of cartelization has gone further than I thought.

Mr. WHERRY. Mr. President, if the Senator will yield further, the Senator cannot speak with authority on that.

Mr. DOUGLAS. No.

Mr. WHERRY. He cannot do that any more than he can say with authority that there is a combination among other great institutions, such as steel.

Mr. DOUGLAS. No.

Mr. WHERRY. The Senator does not want to say on the floor of the Senate, does he, that all the producers of the steel furnished to the jobbers on the Missouri River for a hundred years on the basis of freight absorption are in collusion? The Senator cannot justify that statement with the evidence.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr WHERRY. Mr. President, just a moment. Who has the floor?

Mr. DOUGLAS. I yielded to the Senator from Nebraska.

Mr. WHERRY. Who is the other Senator who is now speaking, or who spoke on the floor a moment ago?

Mr. DOUGLAS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. WHERRY. Only Senators of the United States are allowed to speak on the floor of the Senate. We only have 96 Senators. I am not complaining about the distinguished Senator from Illinois.

Mr. DOUGLAS. Perhaps I should not be speaking from the well of the Senate.

Mr. WHERRY. That is all right.

Mr. DOUGLAS. Does the Senator wish me to retire from the Chamber?

Mr. WHERRY. I think it is a breach of the rules for an individual to walk to the well of the Senate and address a Senator. If the Senator is to be addressed, the remarks should be spoken audibly so we can hear it. That is the point I am making.

Mr. TOBEY. Mr. President, will the Senator yield for a moment?

Mr. DOUGLAS. I yield.

Mr. TOBEY. I have the greatest affection for the Senator from Nebraska, and he is growing in wisdom and stature day by day. But he is all off, Mr. President, in this instance, because he knows as well as I do that the chairman of every committee whenever a debate is on, has sitting beside him his secretary or his expert adviser to tell him things, to write them down, and to whisper things in his ears. That is all the young man is doing.

Mr. WHERRY. Mr. President, perhaps that is all he was doing. Perhaps he is the Senator's secretary.

Mr. DOUGLAS. That happens to be true. His name is Robert Wallace and he is my research associate.

Mr. WHERRY. If that be true, I am not going to question it.

Mr. DOUGLAS. If the Senator objects to my speaking as I stand in the well of the Senate, I shall be glad to step back.

Mr. WHERRY. No. I am not objecting to the Senator's speaking from the well of the Senate. But I think there is a question as to who is on the floor, and who is doing this, and who is doing that.

Mr. DOUGLAS. Mr. President, do I have the floor?

Mr. WHERRY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Illinois has the floor. He has been yielding.

Mr. DOUGLAS. I have been yielding for the last 20 minutes. I will yield one more minute for a question.

Mr. WHERRY. I should like to have the Senator answer the question. Will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Illinois yield further?

Mr. DOUGLAS I yield 1 minute.

Mr. WHERRY. Mr. President, I ask whether the distinguished Senator meant to say to the Senate he presumed there was no collusion in the candy field, although the price was 5 cents throughout the country. I asked the distinguished Senator, does he have any other reason, or does he know of any reason for believing that there is collusion among all the steel companies which are shipping steel into Omaha and into St. Joseph, Mo., Kansas City, Mo., and Minneapolis, Minn., so that the local steel fabricators can get steel at a price at which they can fabricate it and redistribute products to the people? Does the Senator think there is collusion among the steel companies? Does the Senator have evidence showing collusion in price? I refer of course to the selling prices of steel. That is, the price of the raw materials sold to great jobbers and fabricators all up and down the Missouri River?

Mr. DOUGLAS. Does the Senator from Nebraska wish me to reply?

Mr. WHERRY. Yes. Does the Senator have any evidence of collusion?

Mr. DOUGLAS. I find that there is an extraordinary and amazing coincidence of prices charged by various concerns which might lead me to suspect collusion.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. DOUGLAS. I am very glad to yield.

Mr. LONG. Is the Senator familiar with the example I gave in my speech, with respect to the railroads from Birmingham to New Orleans wanting to reduce their rate by $3 a ton for steel shipped from Birmingham to New Orleans? But the Northern Association of Railroads—and this is a matter of record, a matter of proof—exerted pressure at the behest of the northern steel concerns, to prevent that great reduction taking place, because they had agreed to match the price in New Orleans, and they would have to reduce their price to New Orleans by $3 a ton, if they did that? Does not that in itself prove there is some collusion?

Mr. DOUGLAS. Mr. President, I do not wish to inflict cruel or unusual punishment upon the Senate by keeping Senators here beyond their dinner hour. In the last three-quarters of an hour I have been able to progress just one paragraph in my speech. The RECORD is going to look very choppy tomorrow morning with all these interjections. I sometimes suspect that my very astute and able colleague from Nebraska sometimes interjects in order that the continuity of the RECORD may be disturbed. I sometimes think that in these colloquys, the distinguished Senator from Nebraska is guided by the political tactics of the Indians, who formerly surrounded the travelers on the Nebraska plains, as they would journey over the prairies, the Indians would shout and indulge in their war whoops and would carry on a process of psychological warfare, intended to strike terror into the hearts of the poor travelers. Sometimes I think our friend is copying the Comanches and that he learned his political tactics in their school.

Mr. WHERRY. Mr. President——

Mr. DOUGLAS. I can only say, so far as I am concerned, that the Senator is not going to strike terror into my heart. I should like to continue my speech.

The PRESIDING OFFICER. Does the Senator yield?

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. DOUGLAS. I may say this——

Mr. WHERRY. Just one question.

Mr. DOUGLAS. If the Senator is willing to stay until 10 o'clock tonight, I am ready to stay with him. I love his company and I love the verbal darts in which he indulges. But this is going to be a matter of hours, the way he is keeping up.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. WHERRY. I love the company of the Senator, and I should be glad to stay here until 10 o'clock tonight, if we had a unanimous-consent agreement to vote

on the bill. I came on the floor only approximately 10 minutes ago, and I have asked the Senator only two questions. If that has made his speech "choppy" and if there is still some sound of "Indian war whoops," I should be glad to have the colloquy appear at the end of the Senator's remarks.

Mr. DOUGLAS. If it could be embossed in gold, I think that would be well, also. That alone would be worthy of the purity of the Senator's style.

(Upon request of Mr. CAPEHART, and by unanimous consent, it was ordered that the following be printed at this point in the RECORD, at the conclusion of Mr. DOUGLAS' speech:)

Secretary of Commerce Charles Sawyer, in a statement issued today, urged American business to make a careful study of the economic effects of the recent Supreme Court decision on basing-point pricing for presentation to the congressional committee now studying the problem.

"Every businessman, every consumer, every community affected by this situation should not lose the opportunity to give Congress the facts," the Secretary said.

Secretary Sawyer's complete statement follows:

"The Supreme Court decision in the Cement Institute case, outlawing the multiple basing-point pricing system as practiced in that industry, has aroused widespread concern in the world of business. From discussions I have held with the Department's Business Advisory Council and from communications which I have received, I know that many firms, large and small, are worried about the impact which the decision may have upon their own pricing practices. This is a serious matter and one with which the Department of Commerce is vitally concerned.

"Whether or not the Supreme Court decision actually requires the drastic pricing changes which some members of industry feel that it does require, the fact remains that many changes are already being made and that the effect both on the producer and the purchaser has been unsettling.

"It is too soon to tell what the ultimate result of the Supreme Court decision will be. It is obvious, however, that any extensive revision of pricing practices by industry will affect existing patterns of distribution, particularly in those industries where transportation represents a significant part of the delivered price of a product. This could have severe repercussions upon smaller business enterprises which would be among the first to feel the effects of changes in business practices. Should there be large-scale resort to f. o. b. pricing by industries now using other pricing methods the customers of such industries will find their own costs revised. Where these revisions are substantial the result may be a shift to other suppliers or, in extreme cases, an actual physical relocation of plant facilities with a consequent migration of workers.

"Almost without exception American businessmen sincerely and heartily favor enforcement of the historic American policy against monopolistic restraint of trade and unfair competition, and there can be no doubt that these policies have made a substantial contribution to the success of our free enterprise system. They must not be repudiated. Businessmen, as well as others, accept the decisions of our highest Court as the last word on what is the law. Furthermore, businessmen wish to comply with the law.

"In connection with this matter, however, they are confused as to the steps necessary to effect this compliance. Moreover, many businessmen feel strongly that sweeping changes in traditional pricing practices will be harmful to producers and consumers alike.

"The matter is critical, an appraisal of the factors involved is difficult, and an early and completely objective approach to the problem should be welcome. I am pleased to note the recognition of the complexity of this problem by the Congress and the fact that the subcommittee under Senator CAPEHART has already begun, with the advice of a distinguished committee of businessmen and citizens, to get at the facts as a basis for recommendations in connection with this matter. I am gratified at this businesslike step and assure the committee that it will have the complete cooperation of the Commerce Department in this investigation.

"Every businessman, every consumer, every community affected by this situation should not lose the opportunity to give Congress the facts. The public interest requires that those who know the facts should give the facts.

"Meanwhile, I hope that producers, in considering what steps they should take to comply with the law, will, so far as possible, avoid imposing hardships on particular customers or contributing to general inflationary price increases.

"This should not be the occasion for excitement or clamor about business exploiting the public, or Government persecuting business. We are faced with a serious, practical, and immediate problem which should be examined jointly by business and Government with a view to serving the public interest."

Mr. CAPEHART. Mr. President, I have listened very attentively to the able Senator from Louisiana [Mr. LONG] and the able Senator from Illinois [Mr. DOUGLAS] and to the many questions asked of each of them and their replies to those questions. The one most noticeable thing that ran through both speeches is that all in the world they have done is to rehash the old antitrust suits which the Government won, and rightfully won. The suits were brought in connection with cases of collusion, of conspiracy. I do not know of a single Senator or of a single witness who appeared and testified at committee hearings who in any way, shape, or form has tried to apologize for the concerns which were prosecuted and which lost their cases.

All through the speeches and debates and arguments which have taken place today Senators have spoken of the basing point. Some Senators have urged that we restore the basing point. There is no relationship whatever between the bill introduced by the able Senator from Wyoming [Mr. O'MAHONEY], which we are now considering, and the so-called basing-point system. There is absolutely no relationship between the two. Hearings on this question continued for weeks and weeks, and hundreds of witnesses appeared before the committee. Every witness testified that he was opposed to phantom freight. Every member of the committee was opposed to phantom freight. I am certain the Senate of the United States is opposed to phantom freight. I am certain the Attorney General is opposed to it. I am certain that every Senator is in favor of the Sherman Act, of the Clayton Act, of the Robinson-Patman Act. There was not a single scintilla of evidence or testimoney in the hearings which indicated that anyone wanted in the least to break down or weaken the antitrust laws, the Robinson-Patman Act, the Sherman Act, or the Clayton Act.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. CAPEHART. I should like to finish my statement, and then I shall be very happy to yield.

The testimony from beginning to end, on the part of little-business men, big-business men, labor union representatives, lawyers of the Federal Trade Commission, on the part of everyone who testified, was that there was confusion, and that clarification was needed. Even the economist for the CIO steel workers, Mr. Brubaker, who made an excellent statement, testified to the same effect. He did as our colleagues have done today. He rehashed a number of previous suits which were brought against corporations for doing things we are all opposed to. The things which were done, which resulted in suits being brought, were things we are all against. Those are matters which have already happened. Those who did the things for which they were prosecuted were properly and rightfully prosecuted.

Mr. Brubaker admitted in the end that every seller in the United States, regardless of where he is located, whether he happens to be fortunate enough to be located in New York, where a population of 10,000,000 people or more forms a potential buying market, or whether he is located in the farthermost corner of Minnesota, where there may be only 10 persons within 10 miles, should have the right to sell wherever he could, and absorb the freight or pay the freight and equalize the cost. If he did so independently, if he did so without collusion and without conspiracy, and if his price equalled that of some competitor a hundred miles away, or a thousand miles away, he should not be prosecuted because of what he did. Likewise every member of the committee and every witness I listened to, and I believe I listened to all of them, were agreed that every time two men or a group of men or a hundred men sat down and in collusion agreed to fix prices they should be prosecuted.

I listened most attentively to the able Senator from Illinois [Mr. DOUGLAS] today. So far as I can see he did not even make an effort to connect up his argument to the effect that the pending bill is a basing-point bill, to the present legislation, except that at the tail end of his speech he did refer to it.

Mr. President, I am certain that if the bill in any way, shape, or form weakened the antitrust laws we would all be opposed to it. I know I would be opposed to it in that case. I am certain the author of the bill also would be opposed to it. I am certain in my mind that the bill will not in any way weaken the antitrust laws.

The able Senator from Louisiana [Mr. LONG] admitted that he was in favor of permitting independent sellers, acting independently, to absorb freight, equalize the freight, or pay the freight. The able Senator from Illinois is not so certain he agrees to that. He is afraid it

might be a means to some sort of collusion. I can see how collusion could happen.

Mr. WHERRY. Mr. President, will the Senator yield for a question?

Mr. CAPEHART. Mr. President, I have already refused to yield to the Senator from Louisiana. I should like to finish my statement, and then I shall be glad to yield.

In America we have 48 States and we have no trade barriers between the States. We have thousands of cities and we trade back and forth. The very fact that we trade means that we must transport goods. We cannot trade without transporting goods. I have always felt and always will feel that the cost of transporting goods from the seller to the buyer is as much a part of the cost of the goods as the steel or the wood or the iron or whatever it is that goes into the article. It certainly is not a sale until it is in the hands of the buyer. I think we want to develop that kind of economy in America. I think we want to place any seller in America, big or little, in a position where he can sell to anyone in America, and compete with his competitors, whoever they may be, by being able to absorb or equalize freight. I am thoroughly convinced that if we adopt any other method we will retard the progress of the Nation.

I know the arguments on both sides of this question, because I have listened to the testimony given on the subject. Some have recommended that we go to an f. o. b. policy. The associate counsel, who really handles the legal matters for the Federal Trade Commission, admitted before our committee and also admitted during the course of a broadcast with me, that he favored an f. o. b. policy. I am not so certain that this Nation would not have been better off if when we started 165 years ago we had adopted that policy; but we did not. To adopt it now would mean displaced persons and ghost towns. It would completely upset the United States.

Mr. DOUGLAS. Mr. President, will the Senator yield for a question?

Mr. CAPEHART. Let me finish.

Mr. DOUGLAS. The Senator from Indiana interrupted me frequently with questions. I wonder if the Senator from Indiana will be kind enough to yield to me for a question.

Mr. CAPEHART. If it is agreeable to the able Senator from Louisiana [Mr. LONG] and the able Senator from Nebraska [Mr. WHERRY], I have no objection.

Mr. DOUGLAS. The Senator has spoken of the dislocation which would occur if we allowed competition to prevail. Is it not true that the Chinese women used to bind their feet, and that when they took off the tight binding they had pains in their feet? Would the Senator recommend that Chinese women should continue to bind their feet? The transition from any period of artificial regulation to freedom is difficult; but is that an argument why we should not strive for it?

Mr. CAPEHART. Mr. President, perhaps I am rather dumb, but I see no relationship between the feet of Chinese women and what we are talking about. Perhaps there is some relationship that I do not understand. I was honest and frank enough to say that if we had started with this system 165 years ago we might well be better off today. But we did not. Industries have grown up all over the United States—in Maine, Vermont, New Hampshire, and California. To try to change the system by forcing each seller to sell f. o. b. at his own place of business would, in my opinion, be disastrous.

I hold in my hand a full-page advertisement issued by the great State of Pennsylvania over the signature of James H. Duff, the Governor of that State. This advertisement was carried in many newspapers and other publications. Perhaps it may still be running. It reads in part as follows:

Will the f. o. b. mill pricing system make it necessary for you to have a plant in Pennsylvania?

Senators may read the advertisement if they care to do so. The State of Pennsylvania was inviting the steel fabricators of America to move their plants close to the back door of the steel industry.

The advertisement also states that two General Motors divisions and the Kelsey-Hayes Wheel Co. intend to do so because of the confusion in this entire subject. That proves what would happen under an f. o. b. pricing method. The big corporations such as General Motors, Kelsey-Hayes Wheel Co., and all others which have the capital and the ability to borrow money and to sell additional stocks would simply locate branch factories all over the United States. They would sell f. o. b. at those branch factories. The man with one factory or one wholesale house, who did not have the capital or the facilities for covering the United States with branch factories, would be practically put out of business.

I am opposed to the cement companies quoting the same prices. I am opposed to the steel companies doing so. I said so repeatedly in the hearings. I am just as much opposed to those things as is the able Senator from Illinois. I am aware of the fact that such a situation exists. I am also aware of the fact that monopolies have become bigger and better in the past 20 years. Many of the witnesses who were complaining about the same thing the able Senator from Illinois complains about, when asked by me whether monopolies had grown bigger and better than they were 20 years ago, admitted that they had.

I am aware of all that, but I see no relationship between the fact that monopolies are bigger and better—and they are becoming bigger and better—and the basing-point system, because the basing-point system has now been outlawed. It will still be outlawed under the bill introduced by the able Senator from Wyoming.

I cannot help but believe, after listening to many weeks of testimony, that this bill will be for the benefit of the little-business man in America and not for the benefit of the big-business man. I do not see how anyone can argue that to go to an f. o. b. mill basis would benefit the little-business man of America. How could it possibly benefit the little fellow? It would benefit the big fellow, for two reasons. First, if every retailer and every wholesaler in the United States must pay the freight on that which he purchases, his prices will go up. Dozens of retailers and wholesalers testified to that fact. Take the merchants in North Dakota and South Dakota who buy their goods in Chicago, Cleveland, and other eastern cities. If they are forced to pay the freight, the cost of their goods will be higher.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. CAPEHART. I yield.

Mr. DOUGLAS. Is it not true that they now pay the freight? Goods are delivered to them at the price at the basing point plus the freight, which they now pay. If we freed the economic system from the basing-point practice, they might get concerns producing closer to them, at a lower cost, so that the price to them would be reduced.

Mr. CAPEHART. Again the able Senator from Illinois confuses the right of an individual seller, acting independently, to absorb or equalize freight, with the basing-point system, and with phantom freight. I am opposed to phantom freight. I cannot conceive of anyone not being opposed to it. It was wrong. There is no question about it. It has been outlawed. The courts rightfully ruled against phantom freight. There is nothing in the legislation which we are considering which gives any right whatsoever to charge phantom freight.

The trouble with this entire argument has been that we have been talking about one thing, whereas the bill covers another thing. I know that it is very easy to rehash all these cases. Such an argument sounds good, and it is based upon fact. I think we had the same thing in Indiana that the able Senator from Illinois described in respect to cement. I am aware of that. I am opposed to it. It is wrong. Those who indulged in such practices were prosecuted, and rightfully so.

But as a result of all that, are we going to change a system which we have enjoyed in this Nation for 165 years and outlaw or make illegal the absorption of freight or the equalization of freight? That is the big question. That is the question which we must decide.

Mr. DOUGLAS. Mr. President——

Mr. CAPEHART. Just a moment.

Mr. DOUGLAS. Will the Senator yield for a question?

Mr. CAPEHART. I wish to finish this point, and then I shall be glad to yield.

Many honest, sincere men say that we do not need to clarify the law because the law at the moment permits such practices. Others equally sincere and honest say that it does not, and that the law should be clarified.

I remember when the able Senator from Wyoming [Mr. O'MAHONEY] appeared before our committee. While he did not say so, I am certain that he was opposed to what we were trying to do. At that time he simply had not thought the problem through. He later agreed that an individual seller should have the right to absorb freight or equalize

freight. So, I admit, it is a debatable question.

Mr. DOUGLAS. Mr. President, will the Senator yield to me for a moment?

Mr. CAPEHART. I yield.

Mr. DOUGLAS. I know that the Senator from Indiana wants to be historically accurate. I was somewhat startled by his statement that we had had the basing-point system for 165 years. We have had railroads for only about 115 years, I believe. My information is that the basing-point system started in steel and cement around 1880. So I am sure that was simply a historical inaccuracy which the Senator from Indiana will wish to correct.

Mr. CAPEHART. What I intended to say—and I think possibly it was understood—was that for 165 years there had been no law against paying freight or absorbing freight. I presume that when this country was founded we must have had some mode of transportation. We had canals. There were horses; and someone was paid for handling merchandise.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. CAPEHART. I yield.

Mr. WHERRY. I should like to ask a question. Getting entirely away from the academics and the theories which may be involved, and considering merely the practical side of the question, if the junior Senator from Nebraska happened to be in the business of manufacturing certain steel articles which he sold through wholesale and jobber channels within a certain radius of territory around Omaha, Nebr., territory which was accessible to the Omaha factory producing or fabricating the steel articles, in which area that factory could sell those articles on a competitive basis, and if the junior Senator from Nebraska had been purchasing from a steel mill in Pittsburgh or elsewhere in the East, the raw materials from which to process and fabricate those consumer goods; if the situation is not clarified by the enactment of further legislation, is it not true that the junior Senator from Nebraska, if he were in such a business, would have to purchase the steel f. o. b. the mill, in order to continue to operate? Is not that the situation now, if I understand it correctly?

Mr. CAPEHART. That is correct. I understand that the steel companies have gone to the f. o. b. principle, meaning that the buyer pays the freight from the point of shipment.

Mr. WHERRY. That is the proof of the pudding; that is what actually has happened.

Is it not also true in the case of cement? I should like to say that there is a cement mill at the little town of Louisville, Nebr. That mill employs approximately 400 people. I ask the Senator if it is not true that today such mills do not absorb the freight in making shipments.

Mr. CAPEHART. Today the cement industry is selling f. o. b. the mills.

Mr. WHERRY. That is true. Certainly that is the situation in which American industry finds itself today.

If the situation is not clarified by the enactment of legislation, will not the result simply be that if I, as a fabricator, wished to remain in business, I would have to depend upon local business only, business close to my factory, for I would have to purchase my raw materials f. o. b. the mill at Pittsburgh. However, if I wished to be in a competitive position with other fabricators, would it not be necessary for me to move my factory—assuming that I had one—to Pittsburgh or its vicinity, so that I could get some of the business in that area?

Mr. CAPEHART. That is the way the Governor of Pennsylvania feels about the matter.

Mr. WHERRY. Is not that true?

Mr. CAPEHART. Yes; that is true in the case of products with respect to which freight is a substantial part of the cost. Of course, it certainly would not be true in the case of products as to which freight is an inconsequential part of the cost.

Mr. WHERRY. Is it not a fact that when there is a requirement that all products be sold f. o. b. the mill, that narrows competition and makes producers withdraw into an area much smaller than their selling area otherwise would be if they could absorb the freight, in order to meet the competition?

Mr. CAPEHART. That is correct.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CAPEHART. I yield.

Mr. LONG. Let us consider a man with a steel mill at Gary, Ind., who sells steel at a certain price delivered at the gate of the mill, and let us assume that that price is $1 a ton higher than the price of steel when manufactured and sold at Pittsburgh. But suppose today that price were raised to $7 above the Pittsburgh price. Then would not the Gary mill and the Pittsburgh mill be able to do what they could do before the basing-point system was outlawed, namely, the Gary mill could absorb freight up to $3.50 worth, and the Pittsburgh mill could absorb freight up to $3.50 worth; but neither one would attempt to sell in an area where the freight charge from its mill would exceed $3.50, whether the steel was moving from Gary or from Pittsburgh. Could not that be done?

Mr. CAPEHART. Mr. President, today the various mills can sell their products f. o. b. the mills and still can sell them in wide areas, if they wish to do so, simply by means of raising their prices in order to cover the freight.

Please keep in mind that there is no relationship whatsoever between the cost of transportation and having manufacturers get together on a set price.

Mr. WHERRY. But is it not true that, as the law now stands, a consent decree has been entered, enforceable at law, and in connection with that decree it is agreed that the manufacturers will not use the freight-absorption system in a manner that will mean the end of price competition in their industry?

Mr. CAPEHART. Yes; they can do that. They can do any of the things the Senator has described; and then, under the law as it now exists, they can be prosecuted. Under the law as it will exist if this bill is enacted, they can also be prosecuted for doing that. There is nothing in this bill which would prevent the prosecution of anyone who conspires with someone else to eliminate competition.

Mr. WHERRY. Let us assume that bill 1008 is passed, thus providing that freight absorption is all right unless it can be shown that it is used as a monopolistic or collusive practice. Let us assume that various manufacturers seek to arrive at the same price. In the Cement Institute case 50,000 pages of exhibits were offered to prove that the manufacturers were seeking to conspire. But let us suppose that in the future the manufacturers are able to know, just by the glance of an eye, that the old deal is in effect again. How can it be proved that they are entering into a monopolistic agreement and are conspiring to have the same prices?

Mr. CAPEHART. If the prices are identical, that would be one of the pieces of evidence which could be used in court.

Mr. WHERRY. Is not the purpose of this measure to permit them to absorb freight to meet competition? Could not that be used to enable them to arrive at prices identical with those which their competitors were charging?

Mr. CAPEHART. Suppose there are 10 steel companies that are charging $100 a ton for steel; suppose all 10 of them are charging that price. Suppose one of them decides that he will sell steel for $90 a ton. Would not the Senator like to see the other nine manufacturers reduce their price to $90 a ton, and thus give the American people the benefit of the difference of $10 a ton?

Mr. WHERRY. I certainly would. But the trouble is that they do not. All of them leave the price at $100.

Of course I should like to see the price reduced, and I should like to see the reduction in price made available to the people generally. I should like to see some manufacturer able to bid lower prices, and thus require the other manufacturers to lower their prices in order to meet the competition of the lower prices offered by that manufacturer.

Mr. CAPEHART. Of course, prices do go up or down. This bill does not propose to change that situation. It does not change it one iota.

The able Senator from Minnesota [Mr. HUMPHREY] read into the RECORD what Mr. FREAR said about it. He said that manufacturers can do the things we have been discussing, the things to which the bill relates, and that they can do them now, without any change in the law. If he is correct—and sometimes I think possibly he is correct about it—then we do not need a change in the law. But there are many persons who disagree as to that, and I have come to the conclusion that possibly they are correct.

But if that can be done now, without any change in the law, then all the things the Senator just described can be done under existing law.

Mr. LONG. Mr. President, is it not true that as the law now stands, freight absorption is a discrimination and constitutes a violation of the act which says that there cannot be discrimination in such a way as to eliminate competition, and that the mere proof of identical

prices and identical bids all over the United States is sufficient to require the cessation of such a practice? On the other hand, if this bill is enacted into law, it will not be possible to do that, will it?

Mr. CAPEHART. Mr. President, I differ with the able Senator. I do not believe that to be true.

Mr. LONG. Mr. President, I see that I shall have to make another speech on this subject.

Mr. CAPEHART. If the Senator from Louisiana or anyone else can prove it to be true, then I shall oppose the bill. But it simply is not true.

Mr. LONG. Mr. President, it took me 4½ hours today to prove that it is true. Evidently I shall have to repeat my argument.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. CAPEHART. I yield.

Mr. WHERRY. Certainly I do not want to have any monopoly exist. I will go as far as the Senator from Indiana, the Senator from Louisiana, or anyone else will go to help small business; I want to help small business. But if the cement company in Louisville, Nebr., wishes to sell cement in Minnesota, and wishes to absorb a part of the freight rate in order to be able to compete, why does it not have a right to do so? Why does not that process result in getting the competitive price lower than it otherwise would be, because the one who absorbs the freight makes a lower price, rather than a higher price.

Mr. CAPEHART. They have that right.

Mr. WHERRY. Certainly. That is not monopoly. That company is an independent company which today has to restrict its activities nearly 50 percent, because of present conditions. It cannot absorb the freight, it cannot help make competition. But if the law is clarified and it can continue to absorb freight charges, it can regain the old circumference and reach out nearly 150 miles farther. It can still absorb that freight because of the costs of manufacture in Louisville, and can bring the price of cement down to the American people. That is the point I am making. That is a practical example of what has happened. That company has had to withdraw to a narrower radius of competition. It helped make the price lower; but if it is taken out of the picture, then the reverse takes place, the price goes up, and competition is eliminated.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CAPEHART. I yield.

Mr. LONG. I am sure we both share the same objective, but I wonder whether the Senator realizes we have never been able to get the cement companies to sell for different prices at the same destination. Talk about absorbing freight—all they want to do by absorbing freight is to arrive at the same identical price at the destination point.

Mr. CAPEHART. Mr. President, I want to answer that question.

Mr. WHERRY. I, too, would like to answer it.

Mr. CAPEHART. They were in collusion, and they all had the same price. Let us be practical. If they each used the same basing point, the freight rate was the same to all of them. So naturally if they use the same freight rate, which they are all forced to use under the law, and everybody knows what it is, everybody pays the same. After they get through figuring the price it is exactly the same down to, I do not know to how many decimal points.

Mr. WHERRY. Mr. President, does the Senator from Indiana have the floor?

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. LONG. Mr. President, under the law they are not compelled to use somebody else's freight rate to the point of destination. They are completely at liberty to use their own. In fact, it was because they were using the freight rate of another man, in order to match his price identically, that it was found to be illegal.

Mr. CAPEHART. What they were doing was using the freight rates of one another. If the Senator has a mill in New Orleans, and if I have a mill in Indianapolis, when I would sell in Louisiana, I would use that as a basing point, paying the freight from Indianapolis to New Orleans. But when the Senator sold in Indiana, he would use Indianapolis as the basing point, because he would be competing with me. There is no secret about it; they were doing that. They were wrong. The end result was that they all had exactly the same prices, to the decimal point, as long as they assumed it had to work out that way. It was wrong, and the court found it was wrong, and it has been outlawed. Everybody is glad of it. There is no relationship between that and this bill.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. CAPEHART. I yield.

Mr. WHERRY. Let us get back to my example again, of the cement company at Louisville, which is selling for what it feels is a fair price, with the freight absorption. It makes the other companies naturally come down to meet its price. There is no collusion there, because in the final analysis all these things, quality and everything else, are based upon about the same price, so they make the market. The others make the price. There is no collusion about that. If there is collusion, the bill provides it cannot be done, for the bill provides that good faith must be shown. I would certainly be for it all the way along the line. But certainly I do not want to restrict and narrow competition. I believe the distinguished Senator can at least see the results, and he can see what is going to happen, unless the law is clarified. It is not based on theory. It is not an academic proposition. As an absolute fact it has happened in my own territory.

Mr. CAPEHART. Mr. President, I yield the floor.

SEVENTY-FIFTH BIRTHDAY ANNIVERSARY OF FORMER PRESIDENT HOOVER

Mr. FERGUSON. Mr. President, as one who has had the privilege of knowing him well, and one who has unbounded admiration for his capacities and his selfless devotion to the general welfare, I want to speak briefly on the occasion of the seventy-fifth birthday anniversary of the Nation's first private citizen, our only living ex-President, Herbert Hoover.

Truth and time have a way of clearing the record on public affairs and public personalities.

The monumental work of the Commission on Organization of the Executive Branch of the Government, which so strongly bears the imprint of its Chairman, has commanded the enthusiastic and grateful acknowledgment of the American people.

That work will stand as one measure of Herbert Hoover in history. But it will be by no means the sole measure by which history and his fellow citizens may judge him.

There stands above all else the admirable character of one who represents the best in American traditions of industry, humanism, intellectual brilliance, and integrity.

If there is today any question of what Herbert Hoover stands for I recommend a reading of the address he delivered a year ago upon the occasion of his homecoming to his birthplace at West Branch, Iowa. That address was so profoundly moving in the simplicity of its truths that it merits rank as an American classic.

Essentially Herbert Hoover stands for the dignity of man which is given expression and can only be achieved through his own independence—his freedom to think and to act creatively for himself.

Paternalism is the deadly enemy of that freedom, which is built not on the quicksands of adolescent defiance and doubtful expediency but upon the bedrock of ethics, law, and maturity.

Herbert Hoover stands first among those who have recognized the paternalism of statism and its menace to all human liberty.

Herbert Hoover is first among those who have recognized that the ideals of civil liberties which are employed to rationalize the welfare state, no matter how benign its purposes nor how attractive its professions, cannot survive its necessary regimentation of the individual.

History will record these times as a life-and-death struggle for the minds of men. As I have said before on this floor, that is the basic meaning of the cold war in which we are now engaged. And as I have further said, it is a struggle which extends to our very midst.

It is America's good fortune that in these times we may turn to the wisdom and counsel of men like Herbert Hoover. I hope that we may continue to enjoy his counsel and his services for many years to come.

Mr. President, a splendid editorial from the New York Times of this date reflects the sentiments which I know I share with countless millions of Mr. Hoover's appreciative fellow citizens. I ask unanimous consent that it be printed

in the body of the RECORD as a part of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BIRTHDAY GREETINGS

Herbert Hoover, our only living ex-President, is 75 today. He comes to that milestone with the respect and the heartfelt good wishes of a nation. Behind him is an extraordinary career which really divides itself into four careers. The first was that of the energetic and highly successful mining engineer. The second, as a prelude to signal service as the efficient head of the Department of Commerce, found him feeding and restoring a starved and shattered world and manifesting in this task exceptional ability not only to see problems whole, but to act swiftly and effectively to meet needs which ran almost the whole gamut of human misery. The third, of course, was the Presidency. Here Mr. Hoover found himself at the helm of a nation reeling with the heady wine of a false prosperity. When the whole story of his efforts to stem the dangerous tides is set in its right perspective we get the picture of a man fighting valiantly against circumstances he did not create. As a fourth major activity he has just completed the monumental study and recommendations for the reorganization of the executive branch of the Federal Government. This task was performed and organized with a skill and thoroughness which has brought him general acclaim.

Greater perhaps than the abilities which have stood out in the various phases of the ex-President's long and useful life; greater than the engineering approach which has always sought a spring board of solid facts from which to proceed and an amazing clearness of thought in putting first things first, is the character of the man himself. In one era glorified, in another bitterly criticized, he has found the inward strength to follow a true course as he saw it. He has ever been ready to serve and, even when past 70, undertook arduous flights around the globe to make available again his experience for the relief of a world once more plunged by war into hunger and distress.

Inevitably Herbert Hoover has grown in the respect and affection of his countrymen. We join today in wishing him many more years of active and useful life.

EXECUTIVE SESSION

Mr. HOEY. Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. If there be no reports of committees, the clerk will state the nominations on the Executive Calendar.

POSTMASTERS

Mr. HOEY. Mr. President, I ask that we begin with the nominations on page 2, entitled "Postmasters."

The legislative clerk proceeded to read sundry nominations of postmasters in the State of Tennessee.

Mr. HOEY. I move that the nominations of postmasters be cnfirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations of postmasters in the State of Tennessee are confirmed en bloc.

TAX COURT

Mr. WHERRY. Mr. President, I ask that the nomination to the Tax Court of the United States may go over.

The PRESIDING OFFICER. The nomination will be passed over.

UNITED STATES ASSAY OFFICE

The legislative clerk read the nomination of James J. Andrews, of New York, to be Superintendent of the United States Assay Office at New York, N. Y.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. HOEY. Mr. President, I ask that all the remaining nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the remaining nominations of postmasters are confirmed en bloc.

Mr. WHERRY. Mr. President, before the motion is made to recess, may I inquire of the present occupant of the chair. Do I correctly understand that the Senate passed over the nomination of Miss Marion J. Harron, of California?

The PRESIDING OFFICER. That is correct.

Mr. HOEY. I ask that the President be immediately notified of all nominations confirmed today.

The PRESIDING OFFICER. Without objection, the President will be immediately notified.

RECESS

Mr. HOEY. As in legislative session, I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 6 o'clock and 50 minutes p. m.) the Senate took a recess until tomorrow, Thursday, August 11, 1949, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate August 10 (legislative day of June 2), 1949:

IN THE ARMY

The following-named persons for appointment in the Regular Army of the United States in the grades and corps specified, under the provisions of section 506 of the Officer Personnel Act of 1947 (Public Law 381, 80th Cong.), title II of the act of August 5, 1947 (Public Law 365, 80th Cong.), Public Law 36, Eighth Congress, and Public Law 625, Eighth Congress:

To be majors

James M. Brown, MC, O356209.
Jules O. Meyer, MC, O357129.
Anthony W. Miles, MC, O379513.
Sidney Miller, MC.

To be captains

Warren C. Breidenbach, Jr., MC.
Robert C. Butz, MC, O1755622.
Ralph E. Campbell, MC, O1775576.
Hull F. Dickenson, DC, O400639.
Benjamin J. DiJoseph, DC, O1725596.
Albert J. Dimatteo, DC, O1715068.
Howard J. Henry, MC, O1744823.
Harry W. McCurdy, MC, O1725453.
Melton P. Meek, MC, O1735512.
George E. Oldag, MC, O447690.
Charles R. W. Reed, MC, O1785962.
Robert A. Reynolds, MC.

To be first lieutenants

William A. B. Addison, JAGC, O399154.
Sol Balis, MC, O960847.
John W. Barch, MC, O954266.
Tucker A. Barth, MC, O1766611.
Thomas G. Baskin, MC.
Victor D. Baughman, JAGC, O455846.
Alexander H. Beaton, MC.
Marcus R. Beck, MC, O960848.
Robert W. Bell, MC, O962712.
Wilfred B. Bell, DC, O959943.
Robert Bernstein, MC, O1717735.
Anthony L. Brittis, MC, O961448.
Thomas J. Brown, DC, O959929.
Edward L. Buescher, MC, O961688.
Clement E. Carney, JAGC, O1555955.
Harold G. Carstensen, MC, O963950.
Gerald A. Champlin, MC, O958518.
Vernon L. Cofer, Jr., MC, O962725.
Clarence F. Crossley, Jr., MC, O958515.
Roswell G. Daniels, MC, O963576.
Eugene J. Diefenbach, Jr., MC, O960856.
Philip R. Dodge, MC.
John H. Draheim, MC, O960857.
Philip E. Duffy, MC, O965576.
George L. Emmel, MC.
Leroy L. Engles, MC, O965456.
Albert J. Flacco, MC, O964976.
Thomas J. Foley, MC.
Bruce T. Forsyth, MC.
Frank E. Foss, MC, O958513.
Roger J. Foster, MC.
Ralph V. Gieselman, MC.
Thomas T. Glasscock, MC.
Richard Gottlieb, MC, O960861.
John M. Harter, MC.
Charles C. Heath, DC, O964057.
Wood S. Herren, MC.
John A. Hightower, MC.
John H. Hoon, MC, O1996934.
Winston C. Jesseman, MC, O963952.
Richard P. Jobe, MC.
Donald J. Joseph, MC, O1756086.
John M. Kroyer, MC.
Paul E. Lacy, MC, O961442.
Robert M. Lathrop, JAGC, O962513.
Robert R. Leonard, MC, O956165.
Charles W. Levy, JAGC, O569095.
Arthur F. Lincoln, MC, O960866.
Fred Madenberg, MC, O960469.
Nicholas M. Margetis, JAGC, O972255.
Robert H. Mariette, DC, O959930.
Bruce R. Marshall, MC.
Benjamin A. McReynolds, MC.
Herbert Meeting, Jr., JAGC, O370356.
William B. Merryman, MC, O961266.
Richard L. Miner, MC, O958452.
Thomas Morrison, MC, O964458.
George R. Nicholson, MC.
Henry J. Olk, Jr., JAGC, O1845325.
Edwin L. Overholt, MC, O948541.
John A. Palese, MC, O961942.
Paul W. Palmer, MC, O959630.
Charles C. Parker, MC, O954960.
John L. Pitts, MC, O954961.
Robert F. Ranson, MC.
Maurice S. Rawlings, MC.
Robert F. Reid, MC, O964460.
Robert G. Richards, MC, O963265.
Hyman P. Roosth, MC, O963577.
Arthur W. Samuelson, MC, O964980.
William J. Sayer, MC, O958949.
William H. Schlattner, Jr., MC, O958505.
Willis E. Scott, DC, O959934.
Leonard H. Seitzman, MC, O1718449.
Robert L. Sherman, MC, O963955.
Fred H. Slager, MC, O954278.
Edwin S. Stenberg, Jr., MC, O1767534.
William L. Stone III, MC.
John J. Toohey, MC, O961939.
James O. Wall, MC, O960474.
Richard A. Ward, MC, O965832.
Lawrence L. Washburn, Jr., MC.
Richard E. Weeks, MC, O964461.
James A. Whiting, MC.
Dudley E. Wilkinson, MC, O961045.

Louis E. Young, MC.
William B. Young, MC, O960874.
Anton C. Zeman, Jr., DC, O959942.

To be second lieutenants

Jack A. Fullmer, MSC.
Mable L. Jack, ANC, N797947.
Marcile Lansford, ANC, N792111.
Bernice M. Strube, WAC.
Betty G. Washbourne, ANC, N792127.
Betty J. Workman, ANC, N797284.

The following-named persons for appointment in the Regular Army of the United States in the grade of second lieutenant, under the provisions of section 506 of the Officer Personnel Act of 1947 (Public Law 381, 80th Cong.):

Jack F. Andrews.
John B. Berry, Jr.
Alan W. Blankenship.
Newton C. Brackett.
Henry B. Edwards, Jr., O955559.
Conrad L. Hall.
Martin D. Hecht, O957771.
Robert L. Jeansonne, O948382.
Carroll N. LeTellier, O969234.
Jim F. Rast.
William C. Stribling, Jr.
Edward E. Tourtellotte, O957965.

IN THE MARINE CORPS

The following-named officer for permanent appointment to the grade of major general in the Marine Corps:

William J. Wallace

The following-named officer for temporary appointment to the grade of major general in the Marine Corps:

Ray A. Robinson

The following-named officer for permanent appointment to the grade of brigadier general in the Marine Corps:

John T. Selden

The following-named officer for temporary appointment to the grade of brigadier general in the Marine Corps:

Randolph M. Pate

The following-named officer for permanent appointment to the grade of first lieutenant in the Marine Corps:

Thomas R. Burns

The following-named citizens (civilian college graduates) for permanent appointment to the grade of second lieutenant in the Marine Corps:

Tilton A. Anderson, a citizen of Kansas.
John G. Belden, a citizen of Indiana.
James J. Boley, a citizen of Missouri.
Thomas G. Borden, a citizen of Louisiana.
Calvin H. Broyer, a citizen of the District of Columbia.
James W. Burke, a citizen of Ohio.
James Y. Butts, a citizen of Texas.
Ivil L. Carver, a citizen of Colorado.
Andrew B. Cook, a citizen of Massachusetts.
John L. Eareckson, a citizen of Pennsylvania.
William H. Edwards, a citizen of Virginia.
Clyde L. Eyer, a citizen of Missouri.
Matthew C. Fenton III, a citizen of Maryland.
John C. Gordy, Jr., a citizen of Louisiana.
George H. Grimes, a citizen of Indiana.
Robert L. Gunter, a citizen of Pennsylvania.
Arthur J. Hale, a citizen of Oklahoma.
Allen S. Harris, a citizen of Ohio.
Robert P. Harris, a citizen of New Mexico.
Richard G. Heinsohn, a citizen of Tennessee.
Hans W. Hanzel, a citizen of Ohio.
Mallett C. Jackson, Jr., a citizen of Missouri.
George C. James, a citizen of South Carolina.
Edward H. John, Jr., a citizen of Ohio.
Richard J. Johnson, a citizen of Tennessee.
David S. Karukin, a citizen of Massachusetts.
Charles R. Kennington, Jr., a citizen of Ohio.
Walter C. Land, a citizen of Georgia.
Alan M. Lindell, a citizen of New Mexico.
Bernard S. MacCabe, Jr., a citizen of New Jersey.
Byron L. Magness, a citizen of Arkansas.
David G. Martinez, a citizen of California.
John F. Meehan, a citizen of New Jersey.
Willard D. Merrill, a citizen of Massachusetts.
John H. Miller, a citizen of Texas.
Edgar F. Musgrove, a citizen of New York.
Harry J. Nolan, a citizen of Louisiana.
Billy M. O'Quinn, a citizen of Texas.
Richard L. Prave, a citizen of Pennsylvania.
E. Richard Rhodes, a citizen of Illinois.
Joseph E. Rosky, a citizen of New York.
Robert L. Scruggs, a citizen of West Virginia.
Albert C. Smith, Jr., a citizen of Virginia.
Charles S. Smith, a citizen of Virginia.
William A. Snare, Jr., a citizen of Virginia.
William F. Sparks, a citizen of Washington.
James W. Stanhouse, a citizen of Illinois.
Kenneth R. Steele, a citizen of Georgia.
James C. Stephens, a citizen of North Carolina.
Luther G. Troen, a citizen of South Dakota.
Henry W. Tubbs, Jr., a citizen of Illinois.
Thomas B. White, Jr., a citizen of Illinois.
James S. Wilson, a citizen of Georgia.
John O. Wolcott, a citizen of Ohio.

The following-named enlisted man (meritorious noncommissioned officer) for permanent appointment to the grade of second lieutenant in the Marine Corps:

John F. McCarthy, Jr.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 10 (legislative day of June 2), 1949:

UNITED STATES ASSAY OFFICE

James J. Andrews to be Superintendent of the United States Assay Office at New York, N. Y.

POSTMASTERS

MAINE

Raymond W. Fish, Hallowell.

MINNESOTA

Mattie M. Coyle, Garvin.
Lloyd H. Kuhlmann, Isle.

MISSOURI

Howard L. Dickirson, Dexter.
Florence M. Newton, Freeman.

NEBRASKA

Fay T. Zeigler, Brewster.
Raymond D. Rogers, Decatur.
William A. Werman, Elk Creek.
Earl F. Shea, Oconto.
Otis J. Reinmiller, Staplehurst.
Virland D. Hollins, Valley.

NEW YORK

Guy S. Castrilli, Bath.

TENNESSEE

Herbert M. Hickey, Byington.
Wilton Rust, Kingston Springs.
Nelle H. Taylor, Milligan College.

VIRGINIA

Price W. Atkins, Atkins.
James S. Smith, Bristow.
Jack P. Fisher, Callaway.
James Duval Johnson, Covesville.
Edward C. Killmon, Eastville.
George H. Fletcher, Fort Eustis.
Albert C. Thompson, Fort Monroe.
Hudson R. Lankford, Franklin.
Raymond H. Morgan, Green Bay.
Addie Northam, Hallwood.
Luther J. Sample, Honaker.
Charles C. Wells, Matoaca.
Edgar M. Cockrell, Montross.
Paul J. Pennewell, Onancock.
Paschal M. Johnson, Pembroke.
C. Meredith Richardson, Pendletons.
Louise M. Harwood, Saluda.

HOUSE OF REPRESENTATIVES

WEDNESDAY, AUGUST 10, 1949

The House met at 12 o'clock noon.

The Acting Chaplain, the Reverend James P. Wesberry, pastor, Morningside Baptist Church, Atlanta, Ga., offered the following prayer:

Most merciful and compassionate God, our Father, we lift our hearts to Thee in loving gratitude for the privilege of living and serving in America, beautiful and beloved land of our joy and pride. Teach us anew that our Nation's true greatness is not in material wealth or military might but in the character of her people. We rejoice that ours is a Christian nation. Forgive us all that is un-Christlike in us and brighten every dark place throughout the land. Grant the light of Thy divine guidance to these honored representatives of the people. May they be laborers with Thee in making our Nation greater in soul than in territory and an ever-increased blessing to the nations of the world. In the name of Thine only begotten Son, our Saviour. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Carrell, one of its clerks, announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H. R. 91. An act to provide for a research and development program in the Post Office Department;

H. R. 242. An act to provide for the conferring of the degree of bachelor of science upon graduates of the United States Merchant Marine Academy;

H. R. 579. An act to permit the motor vessel *FLB–5005* to engage in the fisheries;

H. R. 607. An act for the relief of Harvey M. Lifset, formerly a major in the Army of the United States;

H. R. 637. An act for the relief of Mrs. Harriett Patterson Rogers;

H. R. 691. An act for the relief of Lawrence Fontenot;

H. R. 748. An act for the relief of Louis Esposito;

H. R. 1017. An act for the relief of John Aaron Whitt;

H. R. 1023. An act for the relief of Lois E. Lillie;

H. R. 1034. An act for the relief of the Jansson Gage Co.;

H. R. 1055. An act for the relief of Agnese R. Mundy;

H. R. 1069. An act for the relief of Albert Burns;

H. R. 1075. An act for the relief of Harry C. Metts;

H. R. 1154. An act to provide authorization for additional funds for the extension and improvement of post-office facilities at Los Angeles, Calif. and for other purposes;

H. R. 1282. An act for the relief of Mrs. T. A. Robertson;

H. R. 1459. An act for the relief of E. Neill Raymond;

H. R. 1516. An act to amend the act entitled "An act to reclassify the salaries of postmasters, officers, and employees of the postal service; to establish uniform procedures for computing compensation; and for other purposes," approved July 6, 1945, so as to provide annual automatic within-grade promotions for hourly employees of the custodial service;

H. R. 1619. An act for the relief of St. Elizabeths Hospital, Yakima, Wash., and others;

H. R. 1679. An act for the relief of Mrs. Skio Takayama Hull;

H. R. 1720. An act to provide for the conveyance of certain land in Missoula County, Mont., to the State of Montana for the use and benefit of Montana State University;

H. R. 1857. An act for the relief of the estate of Josephine Pereira;

H. R. 1993. An act for the relief of Samuel Fadem;

H. R. 2095. An act for the relief of the estate of Kenneth N. Peel;

H. R. 2214. An act to provide for the development, administration, and maintenance of the Suitland Parkway in the State of Maryland as an extension of the park system of the District of Columbia and its environs by the Secretary of the Interior, and for other purposes;

H. R. 2239. An act for the relief of the estate of W. M. West;

H. R. 2253. An act for the relief of the legal guardian of Arthur Earl Troiel, Jr., a minor;

H. R. 2344. An act for the relief of Charles W. Miles;

H. R. 2456. An act for the relief of Charlie Hales;

H. R. 2572. An act to extend to commissioned officers of the Coast and Geodetic Survey the provisions of the Armed Forces Leave Act of 1946;

H. R. 2602. An act for the relief of John B. Boyle;

H. R. 2608. An act for the relief of C. H. Dutton Co., of Kalamazoo, Mich.;

H. R. 2662. An act to grant time to employees in the executive branch of the Government to participate, without loss of pay or deduction from annual leave, in funerals for deceased members of the armed forces returned to the United States for burial;

H. R. 2704. An act for the relief of Freda Wahler;

H. R. 2806. An act for the relief of Paul C. Juneau;

H. R. 2807. An act for the relief of Loretta B. Powell;

H. R. 2869. An act to authorize an appropriation in aid of a system of drainage and sanitation for the city of Polson, Mont.;

H. R. 2925. An act for the relief of Ida Hoheisel, executrix of the estate of John Hoheisel;

H. R. 2931. An act to provide for the conveyance by the United States to Frank C. Wilson of certain lands formerly owned by him;

H. R. 3139. An act for the relief of James B. DeHart;

H. R. 3193. An act for the relief of Public Utility District, No. 1, of Cowlitz County, Wash.;

H. R. 3408. An act for the relief of Opal Hayes and D. A. Hayes;

H. R. 3461. An act for the relief of Lester B. McAllister and others;

H. R. 3501. An act for the relief of Nelson Bell;

H. R. 3511. An act to declare the waterway (in which is located the Brewery Street Channel) from Brewery Street southeastward to a line running south 33 degrees 53 minutes 36 seconds west from the south side of Chestnut Street, at New Haven, Conn., a nonnavigable stream;

H. R. 3756. An act to amend the Civil Service Retirement Act of May 29, 1930, to provide that the annuities of certain officers and employees engaged in the enforcement of the criminal laws of the United States shall be computed on the basis of their average basic salaries for any five consecutive years of allowable service;

H. R. 3788. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Vermejo reclamation project, New Mexico;

H. R. 4097. An act for the relief of George M. Beesley, Edward D. Sexton, and Herman J. Williams;

H. R. 4138. An act for the relief of Herbert L. Hunter;

H. R. 4307. An act for the relief of Ever Ready Supply Co. and Harold A. Dahlborg;

H. R. 4366. An act for the relief of Pearson Remedy Co.;

H. R. 4854. An act for the relief of Mrs. Miriam G. Wornum;

H. R. 4948. An act relating to the policing of the building and grounds of the Supreme Court of the United States;

H. R. 5034. An act to authorize the taxation of Indian land holdings in the town of Lodge Grass, Mont., to assist in financing a municipal water supply and sewerage system;

H. R. 5114. An act to amend the Internal Revenue Code to permit the use of additional means, including stamp machines, for payment of tax on fermented malt liquors, provide for the establishment of brewery bottling houses on brewery premises, and for other purposes;

H. R. 5188. An act to provide for the preparation of a plan for the celebration of the one hundredth anniversary of the building of the Soo Locks;

H. R. 5287. An act to amend title 28, United States Code, section 90, to create a Swainsboro Division in the southern district of Georgia, with terms of court to be held at Swainsboro;

H. R. 5365. An act to provide for the transfer of the vessel *Black Mallard* to the State of Louisiana for the use and benefit of the department of wildlife and fisheries of such State;

H. R. 5831. An act to exempt certain volatile fruit-flavor concentrates from the tax on liquors;

H. J. Res. 188. Joint resolution to provide for the coinage of a medal in recognition of the distinguished services of Vice President ALBEN W. BARKLEY; and

H. J. Res. 242. Joint resolution extending for 2 years the existing privilege of free importation of gifts from members of the armed forces of the United States on duty abroad.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills and a joint resolution of the House of the following titles:

H. R. 162. An act to provide basic authority for the performance of certain functions and activities of the Department of Commerce, and for other purposes;

H. R. 559. An act to confer jurisdiction upon the United States District Court for the Central Division of the Southern District of California to hear, determine, and render judgment upon the claims of the city of Needles, Calif., and the California-Pacific Utilities Co.;

H. R. 631. An act for the relief of Mrs. Dorothy Vicencio;

H. R. 997. An act to extend the benefits of section 1 (c) of the Civil Service Retirement Act of May 29, 1930, as amended, to employees who were involuntarily separated during the period from July 1, 1945, to July 1, 1947, after having rendered 25 years of service but prior to attainment of age 55;

H. R. 1137. An act for the relief of J. W. Greenwood, Jr.;

H. R. 1279. An act for the relief of George Hampton;

H. R. 1285. An act for the relief of the legal guardian of Lena Mae West, a minor;

H. R. 1505. An act for the relief of Harry Warren;

H. R. 1604. An act conferring jurisdiction upon the Court of Claims to hear and determine the claim of Breinig Bros., Inc.;

H. R. 1892. An act authorizing the Secretary of the Interior to issue a patent in fee to certain Indian lands in Lake County, Mont.;

H. R. 1997. An act to authorize the survey of a proposed Mississippi River Parkway for the purpose of determining the feasibility of such a national parkway, and for other purposes;

H. R. 2197. An act to authorize acquisition by the county of Missoula, State of Montana, of certain lands for public-use purposes;

H. R. 2296. An act to amend and supplement the act of June 7, 1924 (43 Stat. 653), and for other purposes;

H. R. 2634. An act to provide transportation of passengers and merchandise on Canadian vessels between Skagway, Alaska, and other points in Alaska, between Haines, Alaska, and other points in Alaska, and between Hyder, Alaska, and other points in Alaska or the continental United States, either directly or via a foreign port, or for any part of the transportation;

H. R. 2740. An act to establish rearing ponds and a fish hatchery at or near Millen, Ga.;

H. R. 2877. An act to authorize the addition of certain lands to the Big Bend National Park, in the State of Texas, and for other purposes;

H. R. 2944. An act to amend the Civil Service Retirement Act of May 29, 1930, as amended, to provide survivorship benefits for widows or widowers of persons retiring under such act;

H. R. 3440. An act for the addition of certain lands to Rocky Mountain National Park, Colo., and for other purposes;

H. R. 3825. An act to amend the Federal Crop Insurance Act;

H. R. 4498. An act to amend section 6 of the act of April 15, 1938, to expedite the carriage of mail by granting additional authority to the Postmaster General to award contracts for the transportation of mail by aircraft upon star routes;

H. R. 4510. An act to provide funds for cooperation with the school board of Klamath County, Oreg., for the construction, extension, and improvement of public-school facilities in Klamath County, Oreg., to be available to all Indian and non-Indian children without discrimination;

H. R. 5086. An act to accord privileges of free importation to members of the armed forces of other nations; and

H. J. Res. 208. Joint resolution to amend the joint resolution creating the Niagara Falls Bridge Commission, approved June 16, 1938.

The message also announced that the Senate had passed bills, joint resolutions, and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 4. An act authorizing the advanced training in areonautics of technical personnel of the Civil Aeronautics Administration;

S. 51. An act to amend title 28, United States Code, section 962, so as to authorize reimbursement for official travel by privately owned automobiles by officers and employees of the courts of the United States and of the administrative office of the United States courts at a rate not exceeding 7 cents per mile;

S. 212. An act for the relief of John Joseph McKay;

S. 229. An act for the relief of E. W. Eaton Coal Co.;

S. 296. An act for the relief of Daniel George Fischer and Ladislas (Vasile) Taub;

S. 309. An act for the relief of Gabe Budwee;

S. 442. An act to amend the Air Commerce Act of 1926 (44 Stat. 568), as amended, to provide for the application to civil air navigation of laws and regulations related to animal and plant quarantine, and for other purposes;

S. 443. An act to authorize the construction and equipment of a radio laboratory building for the National Bureau of Standards, Department of Commerce;

S. 450. An act to amend the Civil Aeronautics Act of 1938, as amended, by providing for the delegation of certain authority of the Administrator, and for other purposes;

S. 472. An act for the relief of Osmore H. Morgan;

S. 557. An act for the relief of the McCormick Engineering Co. and John E. Price, an individual doing business as the Okeechobee Construction Co.;

S.603. An act to amend the Trading With the Enemy Act;

S. 609. An act for the relief of Mrs. Bertie Grace Chan Leong;

S. 614. An act to amend the Hospital Survey and Construction Act (title VI of the Public Health Service Act), to extend its duration and provide greater financial assistance in the construction of hospitals, and for other purposes;

S. 627. An act for the relief of Leon Moore;

S. 672. An act to amend part VIII of Veterans Regulation No. 1 (a) so as to provide entitlement to educational benefits for those individuals who enlisted or reenlisted prior to October 6, 1945, on a same basis as for those individuals who enlisted or reenlisted within 1 year after October 6, 1945;

S. 689. An act to permit certain postal employees or substitute postal employees to receive credit for military service;

S. 777. An act for the relief of Calvin D. Lynch and Son; W. Thomas Lockerman; Sudersville Supply Co.; George C. Moore and H. A. Moore; J. McKenny Willis & Son, Inc.; Hobbs & Jarman; C. S. Thomas; and Royse R. Spring;

S. 794. An act for the relief of certain contractors employed in connection with the construction of the United States Appraisers Building, San Francisco, Calif.;

S. 855. An act to authorize a program of useful public works for the development of the Territory of Alaska;

S. 868. An act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes;

S. 874. An act for the relief of Elza Friedrych;

S. 916. An act for the relief of Ascanio Collodel;

S. 938. An act to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto;

S. 973. An act to exempt from taxation certain property of the National Society of the Colonial Dames of America in the District of Columbia;

S. 986. An act for the relief of Carlos Riggenbach;

S. 1033. An act to further amend the Philippine Rehabilitation Act of 1946;

S. 1054. An act for the relief of Northwest Missouri Fair Association, of Bethany, Harrison County, Mo.;

S. 1096. An act for the relief of Abe Lincoln and Elena B. Lincoln;

S. 1115. An act authorizing appropriations for the construction, operation, and maintenance of the western land boundary fence project, and for other purposes;

S. 1126. An act to amend the Boiler Inspection Act of the District of Columbia;

S. 1145. An act for the relief of Persephone Poulios;

S. 1231. An act to repeal the limitation upon the total annual compensation of certain rural carriers serving heavily patronized routes;

S. 1290. An act to establish and effectuate a policy with respect to the creation or chartering of certain corporations by act of Congress, and for other purposes;

S. 1387. An act to provide for designation of the United States Veterans' Administration hospital to be constructed at West Haven Conn., as the John D. Magrath Memorial Hospital;

S. 1446. An act for the relief of James Hung Loo;

S. 1479. An act to discontinue the operation of village delivery service in second-class post offices, to transfer village carriers in such offices to the city delivery service, and for other purposes;

S. 1565. An act for the relief of Dr. Ludovit Ruhmann;

S. 1604. An act conferring jurisdiction upon the United States District Court for the District of New Mexico to hear, determine, and render judgment upon the claim of F. DuWayne Blankley;

S. 1825. An act to amend the Postal Pay Act of 1945, approved July 6, 1945, so as to provide promotions for temporary employees of the mail equipment shops;

S. 1937. An act to provide greater retention preference for severely disabled war veterans in reductions in force;

S. 1973. An act to further amend the Communications Act of 1934;

S. 2028. An act to permit the Board of Education of the District of Columbia to participate in the foreign teacher exchange program in cooperation with the United States Office of Education;

S. 2031. An act for the relief of the Willow River Power Co.;

S. 2042. An act to authorize the Secretary of the Interior to complete construction of the irrigation facilities and to contract with the water users on the Buffalo Rapids project, Montana, increasing the reimbursable construction cost obligation, and for other purposes;

S. 2046. An act to provide authority for certain functions and activities of the National Bureau of Standards, and for other purposes;

S. 2080. An act to authorize the regulation of whaling and to give effect to the International Convention for the Regulation of Whaling signed at Washington under date of December 2, 1946, by the United States of America and certain other governments, and for other purposes;

S. 2085. An act to amend the Employment Act of 1946 with respect to the Joint Committee on the Economic Report;

S. 2125. An act conferring jurisdiction upon the United States District Court for the District of Oregon to hear, determine, and render judgment upon the claims of J. N. Jones and others;

S. 2146. An act to provide certain additional rehabilitation assistance for certain seriously disabled veterans in order to remove an existing inequality;

S. 2160. An act to amend the Public Health Service Act to authorize annual and sick leave with pay for commissioned officers of the Public Health Service, to authorize the payment of accumulated and accrued annual leave in excess of 60 days, and for other purposes;

S. 2170. An act for the relief of W. P. Bartel;

S. 2201. An act amending section 2 of the act of March 3, 1901 (31 Stat. 1449) to provide basic authority for the performance of certain functions and activities of the National Bureau of Standards, and for other purposes;

S. 2240. An act to authorize certain personnel and former personnel of the United States Coast Guard and the United States Public Health Service to accept certain gifts tendered by foreign governments;

S. 2298. An act to authorize the Administrator of Veterans' Affairs to convey certain lands and to lease certain other land to Milwaukee County, Wis.;

S. 2380. An act to provide more efficient dental care for the personnel of the United States Army and the United States Air Force;

S. 2391. An act to authorize the construction, operation, and maintenance of the Weber Basin reclamation project, Utah;

S. J. Res. 3. Joint resolution to provide that any future payments by the Republic of Finland on the principal or interest of its debt of the First World War to the United States shall be used to provide educational and technical instruction and training in the United States for citizens of Finland and American books and technical equipment for institutions of higher education in Finland, and to provide opportunities for American citizens to carry out academic and scientific enterprises in Finland;

S. J. Res. 24. Joint resolution to provide for a suitable and adequate system of timber access roads to and in the forests of the United States;

S. J. Res. 79. Joint resolution authorizing Federal participation in the international exposition for the bicentennial of the founding of Port-au-Prince, Republic of Haiti, 1949;

S. Con. Res. 55. Concurrent resolution favoring the suspension of deportation of certain aliens; and

S. Con. Res. 58. Concurrent resolution favoring the suspension of deportation of certain aliens.

The message also announced that the Senate insists upon its amendment to the text of the amendment of the House to the bill (S. 1647) entitled "An act to eliminate premium payments in the purchase of Government royalty oil under existing contracts entered into pursuant to the act of July 13, 1946 (60 Stat. 533)," agrees to a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. O'MAHONEY, Mr. KERR, and Mr. CORDON to be the conferees on the part of the Senate.

The message also announced that the Vice President has appointed Mr. JOHNSTON of South Carolina and Mr. LANGER members of the joint select committee on the part of the Senate, as provided for in the act of August 5, 1939, entitled "An act to provide for the disposition of certain records of the United States Government," for the disposition of executive papers referred to in the report of the Archivist of the United States numbered 50–5.

EXTENSION OF REMARKS

Mr. HERTER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include a notable address made by former President Herbert Hoover on his seventy-fifth birthday.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. BOLLING. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include an editorial of the St. Louis Post-Dispatch of August 6, 1949, which comments on the fight made by one of Missouri's most distinguished Congressmen, Representative JOHN B. SULLIVAN, of St. Louis, in attempting to defeat amendments to the Natural Gas Act which would seriously

affect the interest of the consuming public.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. LANE asked and was given permission to extend his remarks in the RECORD.

Mr. SIKES. Mr. Speaker, recently I obtained unanimous consent to insert an article in the RECORD entitled "Elgin Field's Great Work." I am informed by the Public Printer that the cost will be $191.34. Notwithstanding the cost, I ask unanimous consent that the extension may be made.

The SPEAKER. Notwithstanding, and without objection, the extension may be made.

There was no objection.

Mr. REGAN asked and was given permission to extend his remarks in the RECORD and include a letter with reference to the oil industry.

Mr. BREHM asked and was given permission to extend his remarks in the RECORD.

Mr. CHURCH asked and was given permission to extend his remarks in the RECORD and include an article from the Times-Herald by Walter Trohan.

Mr. SMITH of Wisconsin asked and was given permission to extend his remarks in the RECORD in two instances and include extraneous matter.

Mr. GRAHAM asked and was given permission to extend his remarks in the RECORD and include an article by Arthur Krock.

Mr. COTTON asked and was given permission to extend his remarks in the RECORD.

Mr. BROWN of Ohio asked and was given permission to extend his remarks in the RECORD and include excerpts from a broadcast made by Phelps Adams of the New York Sun over the Mutual Broadcasting Co.

Mr. HALE asked and was given permission to extend his remarks in the RECORD and include a speech made by the gentleman from Connecticut [Mr. LODGE].

Mr. HORAN asked and was given permission to extend his remarks in the RECORD and include an article from the New York Times.

Mr. FORD asked and was given permission to extend his remarks in the RECORD and include an editorial.

Mr. FARRINGTON. Mr. Speaker, on yesterday I obtained unanimous consent to include an act passed by the Legislature of the Territory of Hawaii. I now find that it will involve a cost of $218.68. I ask unanimous consent that it be printed notwithstanding the additional cost.

The SPEAKER. Notwithstanding, and without objection, the extension may be made.

There was no objection.

Mr. LECOMPTE asked and was given permission to extend his remarks in the RECORD in two instances; in one to include an editorial, and in the other to include a resolution of the AMVETS of Iowa.

Mr. RICH asked and was given permission to extend his remarks in the RECORD and insert an editorial from the Wall Street Journal of yesterday, Uncle's Bellyache.

Mr. ANDERSON of California asked and was given permission to extend his remarks in the RECORD and include a letter.

Mr. KEEFE asked and was given permission to extend his remarks in the RECORD and include an editorial published in the Milwaukee Journal entitled "We'll Keep the White House."

Mr. MULTER asked and was given permission to extend his remarks in the RECORD in two instances and include extraneous matter.

SPECIAL ORDER GRANTED

Mr. COTTON. Mr. Speaker, I ask unanimous consent that at the conclusion of the legislative business today and any other special orders heretofore granted, I may address the House for 10 minutes.

The SPEAKER. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

CALL OF THE HOUSE

Mr. McCONNELL. Mr. Speaker, I make a point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McCORMACK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 171]

Baring	Dague	Norton
Barrett, Pa	Dolliver	Plumley
Bland	Douglas	Powell
Bolton, Ohio	Eaton	St. George
Bonner	Fellows	Sasscer
Boykin	Gilmer	Smith, Ohio
Breen	Gordon	Staggers
Bulwinkle	Gregory	Thomas, N. J.
Burleson	Hinshaw	Towe
Byrne, N. Y.	Holifield	Vursell
Camp	Jonas	Welch, Calif.
Celler	Kennedy	Withrow
Chatham	McGregor	
Clevenger	Mason	

The SPEAKER. On this roll call 391 Members have answered to their names; a quorum is present.

By unanimous consent, further proceedings under the call were dispensed with.

IMMIGRATION OF AGRICULTURAL WORKERS

Mr. LYLE, from the Committee on Rules, reported the following privileged resolution (H. Res. 322, Rept. No. 1242), which was referred to the House Calendar and ordered to be printed:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 5557) to provide for coordination of arrangements for the employment from foreign countries in the Western Hemisphere, to assure that the migration of such workers will be limited to the minimum numbers required to meet domestic labor shortages, and for other purposes. That after general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read, and after the reading of the enacting clause of such bill, it shall be in order to move to strike out all after the enacting clause and insert the text of the bill H. R. 5828, and all points of order against such amendment are hereby waived. At the conclusion of the consideration of the bill H. R. 5557, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

LEGISLATIVE PROGRAM

Mr. MARTIN of Massachusetts. Mr. Speaker, I ask unanimous consent to proceed for 1 minute that I may make inquiry of the majority leader.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. MARTIN of Massachusetts. Mr. Speaker, I would like to ask the majority leader two questions, if I might.

First, what will be the order of business after the disposition of the particular measure under consideration; and, second, whether the Members should order their Thanksgiving dinners here?

We would appreciate your advice.

Mr. McCORMACK. Mr. Speaker, I can give a very definite answer to the first question. On the second one, I will give as frank an answer as I possibly can.

The next order of business will be consideration of Reorganization Plan No. 2. There is a resolution to disapprove it. The House committe, by a vote of 14 to 7, has disapproved the disapproving resolution.

Mr. MARTIN of Massachusetts. I understand that is coming up in the Senate today, and if they should vote to disapprove it, that would end it, would it not?

Mr. McCORMACK. Of course, that is the end, because when one body disapproves it that ends it. I hope the Senate will not do that. They fought for the one-body veto, and it puts them in a rather embarrassing position, in my opinion. However, that is another question.

Mr. MARTIN of Massachusetts. Now, as to the second question.

Mr. McCORMACK. As to the second question, frankly, I want to state that we have been doing everything we can to get out the military assistance bill. If it could be possible to get that bill out of committee this week, and dispose of it, and then after disposition of the Korea aid bill, we are in a very excellent position thereafter to arrange for the House to take 3-day recesses. I am expressing my own personal opinion. After that time legislation would not be of major importance and could be arranged. So that, in my opinion, as I see it, that might be possible. Of course, the Foreign Affairs Committee has a very serious bill, the military aid bill. Until we know when that is reported out of committee, it is impossible to say definitely anything, because the longer that is held off the more likely other committees are to report bills out which the leadership might be constrained to take up. If the Foreign Affairs Committee could, in their

judgment, act quickly, it would be of invaluable assistance, as far as the House is concerned, because we are far ahead of the Senate.

Mr. MARTIN of Massachusetts. Some of the Members would like to know, if possible, if, in the event we take 3-day recesses, how long that would be apt to continue.

Mr. McCORMACK. That is a matter on which I would rather not make a statement now, because if the military aid bill comes out—I am just expressing my own opinion—I assume that the Speaker, the gentleman from Massachusetts [Mr. MARTIN], and myself would get into a huddle very quickly, and out of that would emanate something very definite.

AMENDING FAIR LABOR STANDARDS ACT

Mr. LESINSKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H. R. 5856) to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H. R. 5856, with Mr. COOLEY in the chair.

The Clerk read the title of the bill.

Mr. REDDEN and Mr. BREHM rose.

The CHAIRMAN. When the Committee rose on yesterday, August 9, there was pending the amendment offered by the gentleman from Texas [Mr. LUCAS] in the nature of a substitute.

Mr. REDDEN. Mr. Chairman, I offer an amendment.

Mr. LESINSKI. Mr. Chairman, I should like to see if we could agree on a time for the limitation of debate on the Lucas amendment.

Mr. Chairman, I ask unanimous consent that all debate on the Lucas amendment end in 60 minutes.

The CHAIRMAN. Does the gentleman mean to include all amendments thereto?

Mr. LESINSKI. No; just the Lucas substitute.

Mr. McCONNELL. Mr. Chairman, reserving the right to object, I feel that it is too early yet to limit debate on the entire Lucas amendment. I therefore object.

Mr. BREHM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair has recognized the gentleman from North Carolina [Mr. REDDEN].

Mr. BREHM. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BREHM. Mr. Chairman, I have been standing on my feet seeking recognition ever since the speaker requested the gentleman from North Carolina [Mr. COOLEY] to occupy the chair. Moreover, I am a member of the committee. I think my amendment should have preference.

The CHAIRMAN. The Chair had recognized the gentleman from North Carolina even before recognizing the gentleman from Michigan.

Mr. BREHM. I feel that the Chair was in error in so doing, because I am a member of the committee and the gentleman from North Carolina is not, and I was on my feet prior to the time the gentleman from North Carolina [Mr. REDDEN] asked for recognition.

The CHAIRMAN. The gentleman from North Carolina is recognized to offer his amendment.

Mr. MARTIN of Massachusetts. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MARTIN of Massachusetts. Does the Chair rule that a member of the committee does not have preference in recognition when two Members, one not a member of the committee, are seeking recognition at the same time?

The CHAIRMAN. The Chair did not see the gentleman from Ohio on his feet at the same time. The Chair had recognized the gentleman from North Carolina, then the Chair recognized the gentleman from Michigan to submit a consent request. The gentleman from Ohio will be recognized in due time.

The Clerk will report the amendment offered by the gentleman from North Carolina.

The Clerk read as follows:

Amendment offered by Mr. REDDEN: Strike out that portion of section 6 (a), page 10, beginning with line 13, through and including line 11, page 11, and inserting in lieu thereof the following: "No less than 75 cents an hour."

Mr. REDDEN. Mr. Chairman, we are all trying to arrive at the same goal here today; that is, we are all trying to fix a minimum wage for the workingmen of this country that will be fair under foreseeable conditions. Ordinarily I favor a bill reported by a committee that has jurisdiction of it over one that has not been considered by a committee, but under the present circumstances it seems that these bills, technically speaking, have not been considered by the legislative committee having jurisdiction. It is true that many points in them, perhaps all points, were considered by the Committee on Education and Labor, and the House has voted, as we all know, to consider the Lesinski bill, notwithstanding the fact that it was not, technically speaking, considered by the Committee on Education and Labor.

We now have before us as a substitute for the Lesinski bill H. R. 5894. I think its coverage is better for the American worker and the American employer than the Lesinski bill. The principal difference in wages is 10 cents an hour. In other words, the Lesinski bill provides for 75 cents an hour, while H. R. 5894, the Lucas bill, provides for 65 cents an hour and may be reduced to 50 cents.

Mr. Chairman, it is my honest conviction that our country's economy is tied to high prices, high wages, and big profits to the extent that we would be justified today in voting for a minimum wage of 75 cents an hour. Whether this ought to be in the Lesinski bill or in the Lucas bill is a question for the Members to decide. You can take your choice with the provisions of those two bills. I have made my choice if the Lucas bill is amended to provide for a minimum wage of 75 cents.

As you know, we have a budget of $42,000,000,000 to support; we have a debt of $250,000,000,000 to pay and the interest on that debt. We cannot meet our obligations unless our economy remains high under high wages and big profits in this country. So we must answer the question now as to whether we wish to support in any bill or in all bills the question of 75 cents an hour.

Mr. Chairman, in view of all these circumstances, I wonder if the author of the bill H. R. 5894, to which I have offered my amendment, will not accept the amendment, and I ask the gentleman now, the gentleman from Texas [Mr. LUCAS], if he really objects to the amendment I have offered? Does the gentleman actually object to a minimum wage of 75 cents in his bill?

Mr. LUCAS. Responding to the gentleman, may I say that I have offered 65 cents. If the Members want to accept 75 cents, of course, that is up to them, and if they want 75 cents I would be for it. However, I have a responsibility on my part to protect H. R. 5894, which provides 65 cents an hour, having been chosen by some Members to offer that bill. I am going to vote for 65 cents, but if the House chooses to make it 75 cents I would be for it.

Mr. REDDEN. As I understand, the gentleman will vote for the Lucas bill, even if the amendment is adopted making it 75 cents an hour.

Mr. LUCAS. I will be forced to.

Mr. REDDEN. Well, I think, in view of that fact, the proponents of the Lucas bill ought to unanimously support this amendment.

Mr. BREHM. Mr. Chairman, will the gentleman yield?

Mr. REDDEN. I yield to the gentleman from Ohio.

Mr. BREHM. I would just like to ask the gentleman does his amendment also eliminate the formula of arriving at the wage by taking into account the cost-of-living index?

Mr. REDDEN. It does. It makes it the same as the Lesinski bill, 75 cents an hour.

Mr. BREHM. It is identical with the amendment which I drafted yesterday, and which I had hoped to offer and had announced in yesterday's RECORD that I would offer.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. REDDEN. Mr. Chairman, I ask unanimous consent to proceed for one additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. LESINSKI. Mr. Chairman, will the gentleman yield?

Mr. REDDEN. I yield to the gentleman from Michigan.

Mr. LESINSKI. That 75-cent rate is in the Lesinski bill.

Mr. REDDEN. It is, and all that this amendment does is to do the very thing

that the gentleman's bill proposes—making it 75 cents. I wonder if the chairman of the committee would not accept this amendment also.

Mr. LESINSKI. I accept 75 cents; I will accept $1.

Mr. REDDEN. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

Mr. BREHM. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, in my opinion, this Committee could combine parts of the Lesinski bill and the Lucas substitute and bring forth legislation which would be acceptable to a vast majority of the American people. That is, providing we have authority to legislate on this subject.

I also believe that it would be much easier to accomplish the above objective by amending the Lucas substitute than it would be to try and amend the Lesinski bill.

I am also inclined to believe that the legislation which will be called up for final passage when the Committee goes back into the House will carry a 75-cent minimum. Therefore, it is my considered judgment that it would be more acceptable to a majority of our citizens to have the Lucas substitute with the change which this amendment will accomplish than it would be to have the Lesinski bill with the same 75-cent minimum.

Mr. Chairman, other speakers will present facts tending to justify a 75-cent minimum in preference to a 65, as well as show why the formula basing the rate on a cost-of-living index should not be employed. Therefore, in order to save time and repetition, I will yield to my colleague the gentleman from New York [Mr. KEATING].

Mr. KEATING. Mr. Chairman, may I ask the gentleman from North Carolina this question? In order to get the matter straight, this is a straight 75 cents?

Mr. REDDEN. Yes.

Mr. KEATING. And the escalator clause of the formula is removed; is that correct?

Mr. REDDEN. That is correct.

Mr. KEATING. That is the same as the Brehm amendment, I take it.

Mr. BREHM. Identical, word for word.

Mr. KEATING. Mr. Chairman, it seems to me there is much merit in the position of the gentleman from Ohio, the original author of the amendment now offered by the gentleman from North Carolina. Neither the Lucas nor the Lesinski bill is all good or all bad. We should strive to perfect the measure which contains the soundest and more maturely considered provisions before we vote on a choice between the two measures.

On the question of coverage, the Lucas bill is preferable since it defines with greater clarity just what employers and employees shall be subject to the provisions of the Fair Labor Standards Act and limits the coverage more precisely to employers engaged in interstate transactions, which is, of course, the only constitutional basis for interference with the employer-employee relationship by the Federal Government, leaving to the individual States the establishment of such regulations, if any, as they may see fit to impose upon the wages, hours, and employment conditions of those engaged in purely intrastate operations.

When it comes to the fixation of a minimum wage, however, the rigid floor contained in the Lesinski bill seems to me sounder than the movable minimum envisioned in the Lucas substitute. I appreciate the force of the arguments advanced for a flexible minimum by the distinguished ranking minority member of the committee and others and their sincerity in endeavoring to achieve for the working men and women of the country the assurance that they will enjoy at all times at least the necessities of life, regardless of the fluctuations in the cost of living index. Yet, on balance, it seems to me preferable and more in consistency with the basic purpose of minimum wage legislation to fix by law a certain and definite rock bottom wage, as is provided in present law, rather than to leave the establishment of this minimum to the vagaries and uncertainties of changes in the cost of living in a particular community.

All employee groups, so far as I know, favor the fixed rather than the flexible minimum. Mention was made in the debate yesterday of the support for that same viewpoint among business concerns. This is borne out by the communications which I have received from employers. So far as I remember, not a single employer has voiced a preference for the sliding minimum. On the contrary, a large number have communicated to me their views that the fixed minimum, whatever it is, is much to be preferred since it makes possible future planning of costs and pricing policies in a manner impossible under a flexible minimum-wage program.

Typical of this attitude is a telegram which I have received from Mr. I. E. Heller, president of the Clothiers Exchange of Rochester, which I would like to read to the membership since it presents the practical problem encountered by those in business who seek to operate on a profitable basis and whose continued prosperity is a matter of concern to the millions employed in industry. This telegram says:

> In behalf of the clothing manufacturers of Rochester, we wish to register our strong support as employers of a stable minimum wage and our opposition to a flexible minimum based on the living-cost index. A flexible minimum would mean that the lowest paid would be affected with every narrow decline in the cost-of-living index. At the same time a state of uncertainty would be created for manufacturers and retailers alike because neither could have any assurance as to what their basic costs would be for a reasonable period of time.

As to the amount of 75 cents an hour contained in the amendment of the gentleman from North Carolina, certainly, except in the most remote areas of the country, no one can seriously contend that a man can live and support a family on less than $30 a week. So far as I know, not a single employee in any industrial or commercial enterprise in my congressional district now subject to the law is earning less than this figure. If exceptions exist to this sweeping statement, they are few indeed. Employers and employees alike, however, in my area have suffered from the attraction of industry and business to other geographical locations which do not maintain comparable wage rates. Although every effort should be made to avoid sectional differences, we must not blind ourselves to the realization that the lower minimum wage contained in the Lucas substitute cannot possibly benefit any section of our country except certain remote areas of the Southern States.

We should take the many sound and well-considered provisions of this substitute and now improve it by the adoption of this amendment offered by the gentleman from North Carolina. We will then be able to vote for minimum-wage legislation which combines the best features of the various measures offered to deal with this complicated subject.

Mr. BREHM. I thank the gentleman for those remarks. I do not believe the question is so much who gets credit for the amendment as it is getting the best bill this committee can bring forth. Therefore, I support the amendment.

Mr. GAVIN. Mr. Chairman, will the gentleman yield?

Mr. BREHM. I yield to the gentleman from Pennsylvania.

Mr. GAVIN. I intend to support the gentleman's amendment. However, after listening to my very distinguished and able friend from Massachusetts, the majority leader, it would appear from his discussion yesterday as though that side of the House has a monopoly on that sort of thinking. I merely want to state that there are many friends of the amendment that is being proposed by the gentleman from North Carolina.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. BREHM. I yield to the gentleman from Massachusetts.

Mr. McCORMACK. Just for the record, may I say first that I am not a monopolist, and second, that the gentleman's interpretation of what I said is something I would not challenge on the broad remarks I made, but I did not say "all," I said the newspaper article said "many." I am very glad to see that my friend from Pennsylvania and I as to the minimum wage have a meeting of the minds.

Mr. GAVIN. I thank the gentleman.

Mr. LESINSKI. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, you have just heard a few sugar-coated words. I am afraid some of you are going to bite at that 75-cent minimum amendment to the Lucas substitute. On this floor in the last 2 days you have heard a summary given you that in the retail establishments there might be a stenographer or a window washer included. The facts are not true. Look at the summary the gentleman from Texas has given you. The statement is not correct.

We have gone further in the bill I have submitted for your consideration, not my own bill, but a bill drafted by 30 Democrats in conference. I realize the gentleman from Texas is carrying the ball

for certain members of the Republican Party. That is a known fact. We know exactly where that bill was written. It is for only one purpose, to destroy the Wages and Hours Act. Look through the bill and read it. One word is inserted, "indispensable," but what a far-flung word that is. No one is indispensable in manufacturing goods for commerce. That one word is more dangerous than anything else in the Lucas bill.

Then the statement has been made that the Labor Department wants to usurp their right of writing regulations. Has not the Treasury got that right? Has not the Bureau of Aeronautics that right? Has not the Food and Drug Administration that right? Has not the Department of Commerce that right, as have many other bureaus? Has not the Federal Communications Commission got that right? You are setting up here a minimum-wage provision under which nobody has any rights. Yes; go to the Administrator and find out from him what are the rights of certain businesses that are on the border line? He does not know. He says he thinks you are not covered by the act, but when the case is brought into court the employer loses. The employer is penalized and must pay treble damages and costs. That is where your confusion ensues. That is what the Lucas bill will do. It will bring confusion to the minimum-wage law. I ask you to be careful. Do not pay attention to this amendment bringing it up to 75 cents. That is only sugar coating, because if you fall for this maneuver, you will not have any bill if you accept the bill the gentleman from Texas [Mr. LUCAS] has offered. I want you to remember this, that whatever the Committee on Rules said here, the Lucas bill was dropped into the hopper 4 hours after the rule was granted—and that is permissible. That is a bill which was drafted by a few men to satisfy their own political ambitions.

Mr. FULTON. Mr. Chairman, will the gentleman yield?

Mr. LESINSKI. I yield.

Mr. FULTON. The gentleman has spoken about people being included in his bill and people being excluded from his bill. May I ask the gentleman a question as to one particular group. Are employees of mail-order houses—the big mail-order houses—under the coverage of your bill or are they out? And if they are out, why are they out?

Mr. LESINSKI. If they are in interstate commerce they are in, but if they are nothing but retail businesses, then they are out.

Mr. FULTON. Then that would include Sears, Roebuck, for example, and Montgomery Ward specifically?

Mr. LESINSKI. They are in interstate commerce.

Mr. CASE of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. LESINSKI. I yield.

Mr. CASE of New Jersey. I would like to ask the gentleman the same question with reference to the exemption of all employees, both from the minimum wage and hour requirements, who work in the processing of sugarcane. Can the gentleman explain the reason and justification for that?

Mr. LESINSKI. I can answer that. The Department of Agriculture has given them that exemption and that is why it is in the bill.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. JACOBS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I am for a 75-cent minimum. Therefore I am going to support this amendment.

I believe it is our duty and obligation to make any bill as good as it can be made for the final vote. Then, if it is adopted, we will have done our best to get good legislation.

Having said that I was going to support this amendment, which should strengthen this bill, I hope you will understand that if I offer a word of criticism you will not think I am doing it simply in a partisan sense. I am going to call your attention to something that bears upon the question which was just raised on page 29 of the Lucas bill about the middle of the page.

I am reading this to those who have tear-stained papers in their hands, thinking about the retailers.

At part 4, about the middle of the page:

> Any employee employed by an establishment which qualifies as a retail establishment under paragraph (2) of this subsection and is recognized as a retail establishment in the particular industry, notwithstanding that such establishment makes or processes the goods that it sells.

What will that do to Montgomery Ward, Sears, Roebuck, Penney & Co., and so on?

Now what are the real facts in the case?

Let us get down to brass tacks and talk reason for a minute. When you come to draw legislation of this kind you run into many difficulties. We have small stores on State lines that should not be covered, and yet they are in interstate commerce by virtue of their location. There may be some magic about Union City, Ind., where Main Street is the Indiana-Ohio State line that enables an intrastate worker to live on less than an interstate worker; but I have never comprehended that magic. It is a part of one country. We tried to draw a formula to include large and exclude the small stores, and found it nearly impossible. Then investigation disclosed that these big retail mail-order houses were organized. The employees did not need the protection and therefore they were excluded. That is the whole story.

You Members of this body are entitled to know the truth. Maybe we are wrong. Maybe we are right. But whether we are wrong or whether we are right can only be judged when you know the 18-carat, all-wool facts in the case, and I have given you the truth.

There used to be an old lawyer who practiced law out where I practiced before I came to Congress, and he would always cite 100 or 150 decisions on every point in his brief. Someone asked him why. He said:

"Well, there are 149 of them that are liable to confuse the judge and make him decide for me whether I am right or wrong, but I always like to have one in there to clarify the situation just in case I am right."

Now, that is the whole story. You have got it in a nutshell.

Mr. LUCAS. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield.

Mr. LUCAS. I wish to commend most highly my colleague on the committee for having the courage to stand before this body and state that Sears, Roebuck and Montgomery Ward are excluded under the bill which he is supporting, despite the fact that his chairman has stated otherwise.

Mr. JACOBS. Anytime I stand before this body and make any statement, I am going to believe that it is the truth. I do not do it to embarrass my chairman. I think he was perfectly honest, but the facts are as I stated them. You Members of this body, I believe, can rely on exactly what I have said.

I yield back the balance of my time.

Mr. McCONNELL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, in the last 2 days various proponents of the bill H. R. 5856, including the chairman of the Committee on Education and Labor whose name it bears, have made the statement on the floor of the House that it exempts all retail and service establishments. Moreover, in a mimeographed comparison of this bill and an earlier version of the Lucas bill, which comparison the chairman of the Labor Committee conceded on the floor of the House as having been distributed from his office—CONGRESSIONAL RECORD, pages 10998 and 10999—the same representation appeared. It was made in the following language:

> 1. All retail and service establishments are exempt.

Note well that in this material which went to each Member of the House, the word "all" in the foregoing statement was heavily underlined for added emphasis.

Now let us see whether under H. R. 5856 the statement that "All retail and service establishments are exempt" is an accurate one.

In order to fully understand the inaccuracy of this statement, I ask the members of the committee to refer to the provision in question. It appears at page 30, lines 1 to 16 inclusive, and is as follows:

> SEC. 13 (a). The provisions of section 6, 7, and 12 shall not apply to * * * (2) any employee of a retail or service establishment."

Thus far the statement I am challenging appears on the surface to be correct. But do not be deceived. For this language in pertinent part is identical with the language of the existing law. So that even if the bill stopped there the statement would be entirely unfounded in the light of the restrictive interpretations placed upon identical language in the existing law.

But the bill does not stop there. It immediately proceeds to exclude expressly certain retail or service establishments from the exemption. For after requiring that the establishment must derive 75 percent of its sales volume from "retail selling or servicing," it proceeds narrowly to define that term.

The joker of this provision comes in the definition of what constitutes "retail selling or servicing." For, as you will observe, except for certain sales to farmers, this term is lengthily defined to mean selling or servicing to private individuals for personal or family consumption, or selling or servicing—but not for resale—where the goods sold do not differ materially either in type or quantity from goods normally sold or serviced for such personal or family consumption.

Now just exactly what does that mean? The short answer is that this provision would make certain of the principal rulings and interpretations of the Wage-Hour Administrator under the present exemption a matter of statute.

The language employed in the Lesinski bill is apparently taken from Interpretative Bulletin No. 6, which is the position of the Administrator under the present law. Please note the identical terms employed by the Administrator in this bulletin, and I quote:

> A retail establishment sells goods to private individuals for personal or family consumption. Typically it sells "consumer" goods, such as food or clothing to private persons to satisfy their personal wants.

He then goes on and states that the sale of goods to heat a store or business office will not be considered a retail sale if the sale "involves a quantity of goods materially larger than the normal quantity purchased by private consumers."

Every member of the committee, I believe, has received numerous communications, protests, and solicitations for corrective action from retail and service establishments all over the country. These small businesses in large numbers have implored this House to take action to restrain the interpretative abuses of the Administrator under the exemption of the present law. Yet the answer of the proponents of H. R. 5856 to these beseechings has been a provision which would make a matter of statute the very rulings and interpretations which these local merchants consider so impracticable and unrealistic.

In net effect the definition of retail selling or servicing as contained in H. R. 5856 means as to retail and service establishments generally, that no sale of goods or services can be considered to be a retail sale if it involves a type or quantity of goods and services different from those sold to private individuals for personal or family consumption. This would necessarily mean, in turn, that countless retail and service establishments across the country will be deprived of their exempt status under the act. Especially in the smaller communities a large proportion of the sales of the retail establishments are to other local merchants and businessmen. Although these sales are in fact retail sales, nevertheless they differ in type and quantity from sales made to individuals for personal or household consumption. Those sales which so differ as to type and quantity will be nonretail sales, and where they exceed 25 percent the establishment itself will be nonretail and lose the exemption.

Some examples will perhaps more clearly than mere words serve to demonstrate the effect of this definition. Thus the exemption status of numerous local businesses will be affected by this type-and-quantity test as follows:

First. The retail coal merchant sells a different type of coal to stores than he sells to the home owner. This may make the coal retailer nonretail.

Second. The local laundry cleans towels for the local barber shop, napkins for the local restaurant, or sheets for the local hospital in a quantity greater than it launders for the housewife. This may make the laundry nonretail.

Third. The hotels servicing a convention render services of a diffeernt type and in much greater quantity than to individuals. The hotel then becomes nonretail.

Fourth. The retail paint shop will sell a larger quantity of paint to the house painter than it will sell to a home owner. This may make the paint retailer nonretail.

Fifth. Restaurants furnishing food for a banquet sell in greater quantities than to individuals. The restaurant may then become nonretail.

Sixth. The retail building-supply store sells a larger quantity of goods to the carpenter contractor than the few boards normally sold to the home owner. This retailer, too, may become nonretail.

Seventh. The hardware and plumbing establishment sells a larger quantity of plumbing equipment to the plumbing contractor than is normally sold to the home owner. This may make the establishment nonretail.

Eighth. The local grocery store in the small town sells larger quantities of food to the local hotel and restaurant than it sells to the home owner. The grocer may therefore become nonretail.

Ninth. The small dry cleaner cleaning uniforms for local business renders service as to type and quantity differing from that normally rendered individuals. The dry cleaner thus becomes nonretail.

Tenth. The retail stationer sells his goods to offices differing in both type and quantity from those sold to families. The stationer may thus become nonretail.

Eleventh. The local retail butcher sells meats to restaurants and hotels in differing quantities than those sold to individuals. The butcher may therefore become nonretail.

Twelfth. Furniture retailers sell their wares to business offices in greater quantity and different types than sold to individuals, and this retailer may become a nonretailer.

How then can it be said that H. R. 5856 exempts all retail and service establishments? The type or quantity of sales and whether they differ materially from goods normally sold to individuals is decisive under that bill in determining the exemption status of these small businesses. And bear in mind that on this determination their very existence may depend.

Now consider how the types or quantities of goods normally sold to individuals is to be determined under H. R. 5856. Here, too, the answer is clear. For under section 11 (b) the Secretary of Labor is authorized to make rulings and determinations, among other things, "to clarify the meaning of terms and provisions of this act." And section 15 (a) (2) makes violation of such rulings a prohibited act punishable by the criminal penalties provided in section 16—which include $10,000 fine or 6 months' imprisonment.

Even without this rule-making power many of these local businesses will be deprived of their exemption. But the proposed exemption, coupled with the rule-making power is doubly objectionable.

I have referred to the fact that the term "retail or service establishment" which appears both in the present act and in the Lesinski bill has itself been distorted by administrative interpretation so as to defeat the exemption as to countless such establishments. The Wage and Hour Division very soon interpreted this to exclude even little neighborhood retail establishments which make or process the goods they sell. For example, in Interpretative Bulletin No. 6, paragraph 17, the Division ruled that a clothing store that does no more than make "necessary alterations on ready-to-wear suits" was a retail establishment, but that a retail custom tailor shop that makes your suit to order is not a retail establishment. And the Administrator has prevailed on some of the lower courts to follow this interpretation, and a clarification of the language of the statute is needed so these local retailers will know where they stand.

As it is now, and as it would be under the Lesinski bill, custom tailors, retail bakeries, candy shops, small retail ice plants, prescription pharmacies, ice-cream shops, picture-framing shops, interior-decorating shops, upholstering shops—in short, any retailer who makes or processes all or some of what he sells—are threatened with being denied the retail-establishment exemption. And because of that, for example, a retail custom tailor in a community located on a State line is afraid, or has reason to be afraid, to have a suit delivered across the line. Likewise, a retail bakery, as to having a birthday or wedding cake delivered across the line, or mailing a fruit cake or a box of cookies for customers who order them as special gifts. Likewise any of those other kinds of retail establishments I have already mentioned, which might happen to get involved in some way with interstate commerce. This is a situation that certainly was not intended by Congress when it enacted the Fair Labor Standards Act and that the Lesinski bill fails completely to correct.

I think, therefore, Mr. Chairman, that it is now clearly evident to the members of the committee that the statement that the Lesinski bill exempts all retail and service establishments is thoroughly inaccurate.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. McCONNELL. Mr. Chairman, I ask unanimous consent to proceed for five additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. McCONNELL. I yield.

Mr. PERKINS. There has been much said here about retail exemptions. I would like the gentleman from Pennsylvania to refer to the Lucas bill, page 29, under the heading "Exemptions," section 13, subhead (4) reading:

Any employee employed by an establishment which qualifies as a retail establishment under paragraph (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes the goods that it sells.

My question is: If this Lucas bill does not exempt all manufacturing done by a retail establishment?

Mr. KEEFE. Mr. Chairman, will the gentleman yield?

Mr. McCONNELL. I yield.

Mr. KEEFE. It would be quite necessary, would it not, to exempt a little bakery, for instance, that bakes its goods on the premises and manufactures all of the bakery goods that it sells? Is it nonetheless a retail establishment because it sells its baked goods to the people who come into the store?

Mr. PERKINS. I am just asking the gentleman from Pennsylvania to answer that question.

Mr. McCONNELL. That appears to be correct.

Mr. PERKINS. All right.

Mr. McCONNELL. It says: "If it is recognized in the industry as a retail establishment." That means it is not a manufacturing company.

Mr. KEEFE. That is right.

Mr. McCONNELL. It also does not include the large mail-order houses, because they have to meet the prior test of doing more than 50 percent of their business within a State; if more than 50 percent of the business of a retail establishment is within the State, then, it would meet the first test for the retail establishment exemption. But if more than 50 percent is outside of the State, which is the case with large mail-order houses, they are not exempt, they do not come under section 13, No. 4 at all. They would be covered and not exempt. I think that is the thing the gentleman from Indiana overlooked when he spoke about this.

Mr. LUCAS. Mr. Chairman, will the gentleman yield?

Mr. McCONNELL. I yield to the gentleman from Texas.

Mr. LUCAS. Was not the purpose of putting this amendment in this bill to exempt the custom tailor, because under the Administrator's interpretation bulletin No. 6 it was held that the little tailor shop was a manufacturer and coming under the classification of a manufacturer he could not enjoy the retail exemption?

Mr. McCONNELL. That is correct, which bears out the fact that I stated before. By the interpretations of the Administrator and the use of certain phrases in the way he chooses to use them, they have brought small business in under this act which was never intended in the first place.

Mr. HAND. Mr. Chairman, will the gentleman yield?

Mr. McCONNELL. I yield to the gentleman from New Jersey.

Mr. HAND. First, may I congratulate the gentleman on the statement he has made, because it seems to me that all of us who believe in a high and expanding economy must therefore believe in elevating the minimum rate of wage in order to avoid the chaotic condition which the gentleman has talked about and we must necessarily support the Lucas amendment and must therefore also support the amendment offered by the gentleman from North Carolina because by increasing the minimum wage we thereby avoid the chaotic and ridiculous situation which the gentleman has so clearly referred to.

Mr. McCONNELL. I thank the gentleman.

Mr. HAND. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD at the conclusion of the remarks of the gentleman from Pennsylvania [Mr. McCONNELL].

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. CRAWFORD. Mr. Chairman, will the gentleman yield?

Mr. McCONNELL. I yield to the gentleman from Michigan.

Mr. CRAWFORD. On what basis can a retail establishment such as Sears, Roebuck & Co. purchase a small manufacturing concern and then sell the product of that small manufacturer to the retail trade other than through the general stores' operation? They never do such a thing, do they?

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. HAND. Mr. Chairman, I am glad the gentleman from Pennsylvania [Mr. McCONNELL] was so generous as to yield me some of his time, because I want to compliment him for the very useful and clarifying statement that he is now making. It is for the reasons he points out that we are very nearly obliged to support the Lucas substitute. He has pointed out any number of examples, which under the Lesinski bill, would produce a chaotic and confused administration.

I have said many times before, and I say again as a matter of record, that Congress has no proper jurisdiction to regulate the wages or, indeed, any of the affairs of purely local businesses. The baker, who bakes his own bread, and sells it to local customers; the confectioner, the launderer, the hotel, and innumerable other examples of concerns, which do business locally, cannot be regulated by the Federal Government. It is not within our constitutional jurisdiction.

But with respect to matters over which we do have clear jurisdiction, matters which truly are covered by the interstate commerce clause, I am firmly for the principle of minimum wage, and I am equally in favor of increasing it to a realistic figure, and that in my judgment is at least 75 cents an hour under present conditions.

Those of us who, like myself, seek as a goal a high and expanding economy, and a substantial standard of living for all of our citizens, cannot afford in this day and age to talk about people working for $20 a week. I have always been impressed by a statement made some years ago by a Gen. Robert Johnson, a farsighted industrialist of my own State of New Jersey, who said an employer does not have a moral right to employ people to work for him at less than subsistence wages.

But people who work for entirely local industries must seek whatever relief they are entitled to from the States, because I am convinced that Congress has no legal right to regulate their affairs.

To those of you who share my views, and there are many, I point out that our position necessarily must be to support the pending amendment which changes the Lucas substitute from 65 to 75 cents an hour. Since I am committed to at least a 75 cents minimum, I shall support the amendment. At the same time, as I have indicated, it is necessary to generally support the Lucas substitute. It is a far more satisfactory alternative than any other before us presently. It does not seek to exercise a wholly illegal Federal jurisdiction, and while by no means perfect, is a more realistic approach to the problem as it exists today.

Mr. LESINSKI. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment and all amendments thereto close in 10 minutes.

Mr. KEEFE. Mr. Chairman, I object.

Mr. LESINSKI. Mr. Chairman, I move that all debate on the Redden amendment and all amendments thereto close in 15 minutes.

The question was taken; and on a division (demanded by Mr. LESINSKI) there were—ayes 23, noes 91.

So the motion was rejected.

Mr. BURKE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, during the course of general debate I pointed out the deleterious effect of the flexible wage scale tied to a cost of living and made the statement that it would be equally bad on employer and employee alike, which has been borne out by the telegram read by the gentleman from New York this morning.

Although I have no disposition, you might say, to sweeten a bill that is bad, I believe I can go along with the amendment to substitute the 75-cent flat minimum in the Lucas bill for the flexible minimum proposed in the original bill.

Addressing myself to some of the recent discussions about retail establishments, I would like to point out this salient fact:

The revised Lucas bill would exempt all manufacturing done by a retail establishment. This would include such things as manufacture of clothing, custom tailoring, manufacture of candy, bakeries, etc. This provision would permit other manufacturing activities to be established in retail establishments. This provision would remove 25,000 employees from the minimum wage and overtime protection of the act. The Lesinski bill would continue to exempt retail establishments as such. If noncovered manufacturing is done in such establishments, there would be no coverage under the law and no loss of exemption.

I would just like to say in closing, to go back to my original point, that the

flexible wage is, in my opinion, bad for both the employer and the employee. It has not worked out, and I would hate to see such a formula placed in our Federal law so that our whole economy would be tied to it. I think it is a bad thing all the way through. In the experience we have had, in dealings between employer and employee, we have found that it does not work, and therefore I support the amendment offered by the gentleman from North Carolina to substitute the 75-cent minimum.

Mr. ROGERS of Florida. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I think it is the sense of this body that there should be an increase in the minimum wage. I think that in dealing with this legislation, however, we must take into consideration that we are dealing with three classes of people, some of whom would be benefited and some of whom would be damaged or hurt.

In the first place, we are dealing with the wage earner. The purpose of increasing wages is that he may have a better standard of living. In the second place, we are dealing with industry, particularly small business. In the third place, we are dealing with the consumer.

Those are the three clases of people. As you help one you hurt the other. What course should this Congress pursue in the passage of such legislation as this? We should not just legislate for one class, but we should pass legislation that will protect the interests of all as nearly as we possibly can.

Therefore, the question comes: which is the best bill before this committee? Is it the Lesinski bill, not considered by the committee? Is it the Lucas bill, not considered by the committee? They come in here and put it to us to select or pass the better bill.

I am interested in discussing just two phases of the Lesinski bill which to me are untenable. In the first place, the bill is discriminatory. It unfairly discriminates in favor of the producers and growers of sugarcane. The great State of Louisiana produces four times as much sugarcane as the State of Florida. We produce a great deal; we produce around 80,000 tons of sugar a year, but Louisiana produces about 4 times that much.

A lot of you want to stick big business. I do not, but there is a general tendency to hamper big business. But in the Lesinski bill Louisiana is exempted from everything, including the child-labor laws. The Lesinski bill exempts Louisiana cane producers. You can take a young child and put him out there in the processing of sugar in Louisiana, and they are not subject to the wages nor subject to overtime. Is that fair legislation to the producers of the State of Florida? Is that fair legislation to the producers of beet sugar? There are 22 States in this country that engage in the manufacture of sugar made from sugar beets. Is that discrimination? I believe it is.

I am not criticizing the Members from Louisiana. If they want such a provision in the bill and can get it in, and you will endorse it, that is your business, but I call it to your attention that there is a discrimination that does not take care of child labor, that does not take care of minimum wages, and that does not take care of overtime, as is done for Louisiana.

Down in my State of Florida we have the United States Sugar Corp., and we have some other producers of sugar. They have a fine contract with their employees. They are not subject to overtime under the present law, but do you know what they do? They have a contract under which they work 56 hours. They have overtime over 48 hours. If this legislation is passed, that means the take-home pay for those people who are working for the United States Sugar Corp. will be reduced. Why? Under the present set-up they work 48 hours and have time and a half over 48 hours up to 56 hours, so they get a dollar an hour, and under the present arrangement they take home $60 a week. If this law were passed the result would be that they would earn only 40 hours' pay—thus such a law would be detrimental to the wage earners in this industry in the State of Florida.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. ROGERS of Florida. Mr. Chairman, I ask unanimous consent to proceed for two additional minutes.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. ROGERS of Florida. Mr. Chairman, I do want to call your attention to that discrimination. That is the difference between the Lesinski bill and the Lucas bill. Here is the crux of the situation: the minimum wage of 65 cents or 75 cents an hour.

I would like to call your attention to another discrimination in the Lesinski bill which no Member of this House would want to give their approval to and that is to permit the Administrator to stir up legislation for 10 years, and do not tell me that it will not be stirred up for a period of 10 years, and that many suits will be brought. That is the situation.

Mr. PERKINS. Mr. Chairman, will the gentleman yield for a correction?

Mr. ROGERS of Florida. I yield.

Mr. PERKINS. With reference to sugarcane and sugar-beet industries, the exemption is 56 hours weekly for 14 weeks.

Mr. ROGERS of Florida. No; that is a mistake, according to my interpretation of the bill. My interpretation of the bill is that the State of Louisiana, which produces four-fifths of the sugar of the United States is not subject to the child labor law, not subject to the minimum wage provision; not subject to the overtime provision, and if you people can vote for a provision like that in this bill, then I say that is your responsibility.

Mr. LUCAS. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Florida. I yield.

Mr. LUCAS. If the gentleman will look at the Lesinski bill, he will see that it exempts all sugar processors, but not refined sugar, not to exceed 15 workweeks in the aggregate calendar year, both on wages and hours.

Mr. ROGERS of Florida. It exempts them from wages and hours and child labor. None of this applies to the State of Louisiana. That is not fair. That is not fair to the sugar-beet growers, it is not fair to the State of Florida. If you are trying to take care of the wage earner, look at what you have done to him in Louisiana. Why, you say that child labor can be employed in Louisiana. You say you have nothing to do with it, just go ahead; you are not subject to the provisions of wage-and-hour laws.

The CHAIRMAN. The time of the gentleman from Florida has again expired.

Mr. KEEFE. Mr. Chairman, I move to strike out the last word and ask unanimous consent that I may be permitted to speak for five additional minutes.

Mr. CROOK. Mr. Chairman, I must object. I object because I have been trying to get the floor for 2 days, and as long as this condition prevails, I will have to object—I am very sorry.

Mr. KEEFE. Mr. Chairman, I have given some study to this situation, and while I have no desire to try to impose my will upon the membership with regard to this matter, yet there are some things in connection with the Lesinski bill which I defy anybody on the committee which wrote the bill to explain satisfactorily to the House. I would like the Members to please turn to two provisions in the Lesinski bill which are found in the exemptions on page 32. The first one of those exemptions is the one we just heard about—the exemption of the Louisiana sugarcane producers. The real reason why that is discriminatory against the State of Florida is because the exemption does not exceed 15 weeks in the aggregate of the calendar year, while the Florida producers take over 5 months. Therefore, it is a rank discrimination against Florida in favor of the State of Louisiana. That is not all. Read the next one.

I spoke with the gentleman from Texas [Mr. COMBS] about this. I talked with the distinguished gentleman from Indiana about it. Read the next exemption. What did the gentleman from Texas [Mr. COMBS] have in mind? He had in mind that they were going to exempt little sawmill operations in the South. That is what he had in mind, and he so told me. That was the discussion that they had, and that is what he thought. They intended to exempt the employees of the little portable sawmill operations in the South that employ less than a dozen people. Read it carefully, as I have read it. The amendment does not do that at all, and he will admit it if he is here. They got the gentleman from Texas, Judge COMBS, and some of the other Members from the South into this picture in an effort to try to save the 75 cents an hour. They are willing to exempt almost everybody from the operation of the wage-hour law if they can save the 75-cent minimum. That is all there is to it. The Lesinski bill is a bill to exempt people from the provisions of the Wage and Hour Act, rather than to provide minimum wages for the people that some of you cry so desperately about. That is what this Lesinski bill does. You have raised the exemptions all along the line. Why? Just to get votes, the most despicable exhibition of logrolling that has ever come to my attention in this

Congress. How you advocates of the protection of labor can stand up here and defend the enactment of the Lesinski bill in the interest of labor is beyond me. You do little or nothing but take people out from under the bill and thus try to satisfy every special pleader. You have done it in an effort to save the 75-cent minimum.

Mr. LANHAM. Mr. Chairman, will the gentleman yield?

Mr. KEEFE. I yield.

Mr. LANHAM. Do you realize that even with all the exemptions, not as many are taken out from under the bill as are taken out with the Lucas bill, under one change in the definition of "production for commerce."

Mr. KEEFE. I do not know that the gentleman can state that as a fact capable of proof. I heard the gentleman make his statement yesterday, and he made what appeared to me to be a very frank confession, that those who worked to revise the Lesinksi bill did so in order to satisfy the people in the South by giving them exemptions in lieu of their votes for the 75-cent minimum. To me that is not a democratic way to legislate. As far as I am concerned, I am going to vote for the 75-cent minimum with the Lucas bill.

There are some other amendments that I could discuss in connection with this matter that vitally affect the area that I come from, in the canning and processing industry, that the Lesinski bill will practically kill. It is not the 75-cent minimum. It is the overtime provisions that cause the trouble.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. KEEFE. No; I do not yield. I do not have the time. They cut me off. I wanted to point out what they have done to the canning industry in my State and in your State of Indiana and all the States that produce food to put into cans. You have taken away the statutory exemption that exists in the existing law.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. JENSEN. Mr. Chairman, the gentleman from Wisconsin is making a very effective speech. I ask unanimous consent that he may proceed for five additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. CROOK. Mr. Chairman, I object.

Mr. VELDE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I previously indicated that I would offer an amendment similar to the Redden amendment, but using the flexible wage scale starting at 75 cents an hour. As I understand it, the amendment substitutes the Lesinski rigid minimum-wage figure of 75 cents in the Lucas amendment. Since the rigid minimum-wage theory has been tried out and tested, and the flexible-wage theory is still untried, it may be that the former is the better principle. I shall therefore support the amendment.

From the debate and discussion on the Lesinski bill, H. R. 5856, we find there can be no doubt but what it must have been conceived in the minds of the persons who have been referred to as the "secret 13," and that it has not had the serious study and consideration of every member of the Labor Committee. Mr. LESINSKI refused to name the "secret 13" members of the Labor Committee who considered his bill. If we take the nine Republican members of the committee, who obviously were not members of the "secret 13," as well as those Democratic members who have denied here on the floor being members of this secret group, it appears there are left only, at the most four or five members of the Labor Committee who read and considered the Lesinski bill.

The Lesinski bill therefore is a far cry from what is proper procedure in the passage of legislation; in fact, it is a travesty of justice to even consider a bill that has had such little study and preparation.

As the distinguished majority leader yesterday asked Republican members to search their souls when considering the Lucas amendment, here is a chance for the distinguished majority leader and the members of his party to search their souls regarding the Lesinski bill, and the surreptitious manner in which it was brought before this distinguished body. Ask yourselves this question, "Which bill of the two, the Lesinski bill or the Lucas bill, has had the most consideration and study?" Then search your souls some more and determine which of these bills, as far as coverage and rule-making power are concerned, is the fairest to the employer and the workingman. You will come to but one conclusion, and vote for the Lucas bill.

The Redden amendment to the Lucas bill will give a realistic minimum-wage level to the 22,000,000 workingmen of this country. It deserves the support of every member who is interested in the welfare of these workingmen, and in furthering their struggle for a decent existence. I hope that the Redden amendment will carry.

Mr. HAYS of Arkansas. Mr. Chairman, I move to strike out the last word.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Arkansas. Yes, I yield.

Mr. JACOBS. I just wanted to compliment the gentleman from Wisconsin [Mr. KEEFE] for his neighborliness, after having used my name, in refusing to yield.

Mr. HAYS of Arkansas. Would the committee hear this language which is taken from a Government document, a study of economic conditions in the South authorized by the President's Council of Economic Advisers, page 82:

> No one could say with precision whether a minimum wage rate of 60 or 75 cents an hour would be the upper limit at which such a law should operate. Analysis of the evidence supports the view that a minimum wage law somewhere within this range would be desirable. It is obvious that a minimum wage should not be set independently of movements in the general price level. While a minimum wage probably has some effect in maintaining a "floor" under commodity prices if these prices did decline substantially, it would be essential that the minimum wage be adjusted downward. It would be just as true that a minimum wage level should have upward flexibility in case the general price level increased. An effort to write such flexibility into any minimum wage legislation would be highly desirable.

Some speak as if this were something new; as if we have worked up a strange new idea for the edification of the House. Secretary Schwellenbach was the first that I knew of who suggested a flexible rate. He said:

> Let the Congress prescribe a 75-cent minimum but authorize the Secretary to lower it to 65 cents.

Why did even the Secretary want the safety valve? Because we were confronted with a readjustment of the price situation. The price level might decline. Yet you are assuming now by raising the 40-cent rate to a 75-cent rigid minimum that there is no threat to prices that things have leveled off.

Incidentally the farmers support prices are flexible even though rigidly fixed at 90 percent, 92½, or otherwise, for they vary with price levels year to year. Ponder these facts. The price level last September was 174 percent, 74 percent above the average of 1935–39. Every month since that time it has gone down; every month, since you must consider a slight fraction of 1-percent increase in one of the months a seasonal change.

I appeal to my southern friends to consider the effect of the 75-cent minimum wage upon the small operators; and when I speak of the small operators I am not speaking of those 12 employees of a little lumber mill. Operators with more than 12 but still classified as small business are facing difficulties in readjusting costs to meet their decline of 20 percent in the price of lumber. Some of them would be forced to cut employment. Adopt the Redden amendment and you will invite a few hard-pressed employers to limit their employees to 12 when they might otherwise hire a larger number.

I am speaking with feeling because I am thinking of the little businesses and I know that we are dealing with an economic force rather than a political force. I feel that the House cannot afford to run away from the tough task of outlining a program which will meet the matter on the basis of the real facts and present realities, of considering how the little plants are going to meet the price situation. If you of the high wage areas in an effort to do something that you regard for labor's good and does not hurt you wind up by hurting the marginal areas it will ultimately damage you.

Consider the philosophy of the high minimum, the principles of this Government. I think I know something of the rural situation in the North and West and on this point I can appeal to the Republicans; there are some little business establishments up there in your section that will suffer but I will not argue that point. I will urge your consideration of the other point that once you go into this plan of a rigid minimum 87½ percent above the present minimum you thereby take the Government out of its role of umpire and make it the manager; you are not saying what the 1938 act said, namely, that it should not be less than a certain amount but you are now putting

the Government into the role of manager; you are saying in effect what the level of wages should be. When the umpire ceases to umpire and gets into the coach's role at third base something happens to the game; and I tell you that by this system we would convert the Government from a protector into a dictator. Once we take this great device that appears effective in holding the minimum level and make of it an instrument for increasing wages generally we must consider the final effects upon our philosophy of government.

I know that I have appeared to speak with emotion. I cannot help it. It is life or death for a few of our businesses and a great injustice to them. I have given some months to this problem, not with deliberation, but I was rather innocently drawn into it. Some of the members of the Committee on Education and Labor helped me work out the formula adopted by the gentleman from Texas [Mr. LUCAS] in section 6. The gentleman from Pennsylvania [Mr. MCCONNELL] agrees with my theory; he has long advocated it. So it is not a new thing and it is not complicated. Gear the minimum to the cost of living, subject to annual changes, though we would hope only slight ones. I think this, too, Mr. Chairman, that in view of future uncertainties we should hold it to the 65-cent minimum; I think we could defend that. It should have been made flexible back in 1938, at the time the Fair Labor Standards Act was passed. Had that been done you would have a minimum of about 60 cents today. It is a tremendous problem and I do not say flexibility is the final answer. Wages ought not to depend exclusively upon the increase or the decline in the price level. Of course, as the economy expands we would expect a rise in the wage level independently of prices, but it must be raised in the light of conditions as they exist at each period.

The point I want to make finally is that if it is assumed that 75 cents is justified because we are now about to go into a new boom and enter again an expanding economy, fixing the minimum on that basis, we will make a monumental mistake. It could affect the whole economy. It undoubtedly would wreck the economic structure of many individuals.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. KELLEY. Mr. Chairman, I wonder if we can get some agreement about time on the Redden amendment?

I ask unanimous consent that all debate on the Redden amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. LUCAS. Mr. Chairman, I object.

Mr. KELLEY. Mr. Chairman, I move that all debate on the Redden amendment and all amendments thereto close in 15 minutes.

The motion was rejected.

Mr. CELLER. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, permit me to dip a bit into the past history of the Wage and Hour Act and to point to the debates in this chamber as of May 23, 1938, on the original bill. Just as there has been considerable doubt expressed this morning as to what is meant by "retail or service establishment," during that debate there was doubt likewise when the present act was debated. In order to give clarification to the language of the bill relative to retailing as submitted by the House Committee on Education and Labor I offered the following amendment: "but no such order is applicable to any retail industry the greater part of whose sales is in intrastate commerce."

In the debate that followed I said:

> Dissolve all doubt, dispel all chance of misinterpretation, accept it (my amendment) and then retail dry goods, retail butchering, grocers, retail clothing stores, department stores will all be exempt.

The gentlewoman from New Jersey [Mrs. NORTON] chairman of the House Committee on Labor, responded:

> I think this amendment will not weaken our bill but will in fact strengthen it. Therefore I ask the committee to stand with us in accepting this amendment.

My amendment was accepted. In the conference that resulted, my amendment was changed so that we finally have in the bill today section 13 (a) (2) following: "any employee engaged in any retail or service establishment the greater part of whose selling or servicing is in intrastate commerce" shall be exempt.

Unfortunately, neither the committee nor the House or Senate defined in the old act what was a retail establishment or retail service establishment. As a result, there have been many interpretations of the language in section 13 (a) (2) by the courts, notably the Supreme Court in the case of *Roland Electrical Co. v. Walling* (326 U. S. 657) in which the Court held that an establishment was not retail unless it was engaged in making sales to meet personal and household needs rather than commercial or business needs.

This means that the following sales would not be retail: A hardware store to business customers, a coal dealer to an apartment house, hotel, or school, a furniture store to an office rather than to a home, an automobile supply store to a business outfit, a farm-implement dealer to farmers and a stationery store to a business customer.

Mr. Chairman, may I say that the language used must and should be crystal clear. It cannot be clumsily worded. Otherwise doubt and misunderstanding arise. I maintain that the particular provisions of the Lesinski bill with reference to retailing are not clear and are full of ambiguity and will give rise to all matter and kinds of litigation—costly litigation.

When we remember that practically every dealer on Main Street will be confronted with this problem and will be also confronted with the danger of liability that might be retroactive, we must pause before we accept the very unusual wording of retail establishments and services as contained in the Lesinski bill. I am for the Lesinski principle of 75 cents minimum wage. I am for the Lesinski bill in general with the exception that I think there should be clarification with reference to what is meant in that bill by the words that seek to describe retailing as to services and as to the sale of goods. I think the provisions of the Lucas bill on page 28, section 13 (a) (2) is such proper clarification that we should accept, and at the appropriate time I shall offer an amendment along those lines.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. GWINN. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, I rise to speak against the amendment to the Lucas substitute proposed by the gentleman from North Carolina [Mr. REDDEN]. The gentleman revealed in his first statement the philosophy back of the Lesinski bill, namely, that it is no longer pretended to be a bill to stop exploitation of the helpless. It is a bill under the OPA philosophy of fixing prices, starting at the bottom and going to the top. It is the philosophy of Mr. Tobin, who appeared before our committee with a bill proposing 75 cents, which, within 6 months, he might decide to raise to $1 so as to create by legislation buying power and prosperity according to that theory.

The ridiculous character of this type of legislation attempting to fix a flat rate of 75 cents for the Nation is revealed by the fact that the States themselves have met this problem and have their own minimum wages and hours. Why should the Federal Government try to carve out a segment called interstate-commerce workers and give them a preference over the wages that have already been thought out carefully by the States themselves? Listen to these wages:

New York State, in the year 1948, fixed minimum wages in three areas, three districts of the State, namely, the country, the minimum-sized cities, and the big cities, running from 50 cents to 65 cents.

California fixed rates running from 50 cents to 65 cents.

This covers, in many of the States, women, minors, and men. So it goes throughout the States.

Wisconsin has rates from 40 to 45 cents.

New Jersey in 1947 fixed her minimum scales making three areas: Country, minimum-sized towns, and cities.

Have we the presumption in this House to propose a minimum wage without regard to areas and without regard to States. This is not only a bill against the South; it against the North; against the management and direction of their own police powers.

Now, Members of the House, if you think you are exempt and that you can fix the rate at 75 cents and forget it, let me read to you what the proposition will be next year and the following year that will be advanced by the Secretary of Labor or the administrator.

You will have this legislation on your doorstep, if you exclude the Lucas escalator clause, every year for the rest of your lives. This is the language that will come back to you next year. This is the language of the original Lesinski bill, of

which the present one is only a little dwarf, a kind of illegitimate offspring:

> Every employer shall pay to each of his employees who is engaged in commerce or in the production of goods for commerce, and every employer who is engaged in commerce or in the production of goods for commerce shall pay to each of his employees employed in or about or in connection with any enterprise where he is so engaged * * * 75 cents.

Then the Secretary of Labor, who is to administer it, can make it a dollar. I asked him, "Why not make it $2?" He indicated he might even do that for the purpose of creating purchasing power.

Let us settle this thing now and keep the escalator clause and the 65-cent minimum as proposed by the Lucas amendment. If prices go up or down the wage will follow without having to consider new legislation each year.

Mr. CRAWFORD. Mr Chairman, I move to strike out the last word.

Mr. Chairman, there has been quite a bit of discussion about the provisions of the bills with respect to the sugar industry. I want to speak just a few words to the friends of the domestic sugar industry, and by that I mean Florida, Louisiana, Puerto Rico, the Virgin Islands, Hawaii, and the United States beet-sugar producers and processors. Those I have just mentioned constitute the domestic sugar family. No one of those so-called children, if you want to phrase it that way, if he uses good sense will ask for special privileges as against the other segments of the industry. Those in Louisiana who support that exemption ought to be ashamed of themselves, not from the standpoint of special privileges for Louisiana but for the terrible disruption and destructive force which is set forth in the domestic sugar family. Louisiana ought to have sense enough to know that the Louisiana sugar industry cannot survive if Florida, the domestic beet industry, Puerto Rico, the Virgin Islands, and the Hawaiian Islands are put out of business. There is the tragedy about the exemption in the Lesinski bill.

I hope before this debate closes someone from Louisiana will get up and repudiate that special privilege purely from the standpoint of the protection of the domestic sugar industry. I said when I started these remarks that I wanted to talk to the friends of the domestic sugar industry. These remarks are directed to you. The Lesinski bill does not give the protection which the present law has for Florida and the other members of the domestic sugar industry. The Lucas bill does. Insofar as the Lucas bill refers to sugar and insofar as you are a friend of sugar, I mean the domestically produced sugar, support the Lucas bill.

Mr. EDWIN ARTHUR HALL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, in the year 1930 I was employed as a bank teller. I received $28 a week. I had a family of four children at that time and I was running substantially behind financially. The only way I could catch up with the rent and the food bill and the other items of expense that enter into meeting the cost of living was to get my dad, who was my landlord, to let me pay half the rent that the other tenants paid. That was in 1930, and, as I say, I was getting $28 a week. The proposal we are making here today is to give everybody the opportunity to earn from $28 to $30 a week in 1949. If I was running behind in 1930, I do not know how I could make out in 1949 on $30 a week.

I am supporting a 75-cent minimum because I have been through the mill. I have some idea of what it takes to feed a family and to make ends meet. For that reason I offer no apology. I have searched my soul and my conscience. I believe it is fair to state that every citizen ought to have at least the opportunity to earn a reasonable livelihood.

The point has been made that there are some employees who are not worth 75 cents an hour. The best answer I can see to that is that an employer who feels that an employee is not worth the minimum wage ought to get rid of the employee. He will find very few who are not worth 75 cents per hour. So I do not see where that argument holds water, and for the life of me I cannot see what all the quarrel is about.

A great deal has been said about the flexible wage standard. If I was running behind in 1930 on $28 a week and was making $30 a week in 1949, that would mean, if the cost of living went down to what it was in 1930, on the basis of the proposals I have heard, I would be making about $15 a week. I cannot live on that, and I certainly would not ask anyone else to live on it. I do not know of anybody else who could live on it any better than I could.

Mr. McCONNELL. Mr. Chairman, will the gentleman yield?

Mr. EDWIN ARTHUR HALL. I yield.

Mr. McCONNELL. There is an absolute floor below which the rate cannot go, and that is 50 cents an hour for 40 hours a week; that would be $20.

Mr. EDWIN ARTHUR HALL. I stand corrected on that, but I could not do much better on $20, and I am little different from anybody else. There is one other point I want to make, and that is that I feel both the Lesinski bill and the Lucas bill neglect the very people they should help. I speak of the great mass of white-collar workers. I was a white-collar worker for many years. I do not feel that the rank-and-file white-collar workers are being benefited by either of these bills. So far as I can see, it is six of one and half a dozen of the other. I think the white-collar class—the bank employees and the retail people—should be helped. I have no compunction about what I am saying on this particular proposition because I will vote to put everybody in the larger organizations under this bill. I think the white-collar class has been neglected. People in the manual-labor groups and industries are all making an average of nearly 75 cents an hour. The others are the ones who are neglected, and we might just as well face the issue right here and now that the white-collar workers—the bank employees, chain- and department-store employees, and many others—are the ones who are being neglected, and they are not going to be helped by either of these bills.

I am for a 75-cent-an-hour minimum wage.

The CHAIRMAN. The time of the gentleman from New York [Mr. EDWIN ARTHUR HALL] has expired.

Mr. KELLEY. Mr. Chairman, I ask unanimous consent that all debate on the Redden amendment and all amendments thereto close in 20 minutes, the last 5 minutes reserved for the gentleman from Texas, author of the substitute amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. JONES of Missouri. Mr. Chairman, I object.

Mr. KELLEY. Mr. Chairman, I move that all debate on the Redden amendment and all amendments thereto close in 20 minutes.

The motion was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. JAVITS].

Mr. JAVITS. Mr. Chairman, I am for a flat 75-cent minimum wage. I am opposed to the 65-cent minimum with the so-called flexible clause. I would also like to pay my respects now to all those who believe that the people of the United States are static.

This is a minimum wage. It is the rock-bottom figure. If you are going to vary the wage with the cost of living, then you must be talking about a living wage. A living wage, according to most Government findings, is in the area of $2,300 a year, and would require a minimum wage of something like $1.15 an hour. When we are fixing a minimum wage and a concrete floor, it must be a fixed figure and it should not vary with the cost-of-living index. What we are trying to do is to put a base under the standard of living, and not to allow the base itself to fluctuate with the economy. That is why we should have a fixed minimum wage.

Secondly, this idea that we have a static country and a stable people, is just not in accord with the facts in the United States.

Our basic production in terms of goods and services has increased well over 50 percent in the period from 1939 to 1940. National income has increased from about $90,000,000,000, in terms of the 1939 dollar, to about $175,000,000,000. The people in the United States who earn the minimum wage are entitled to the benefit of that increase, for every American has created it. Individual Americans have also shared, for every American has had added to his income, per capita, in those 10 years, over $800, for the per capita income has increased from $505 a year to $1,338. Hourly wages for industrial workers also have increased from 54 cents to over $1.35 per hour. Wages are over twice the 1938 level, when the minimum wage was first made law. Why not me? the worker earning minimum wages should ask.

Mr. Chairman, we should be proud that we are privileged to legislate for a United States which has the industrial power, the skill, and resources to justify

an increase of the minimum wage to 75 cents an hour.

The CHAIRMAN. The time of the gentleman from New York has expired.

The gentleman from Texas [Mr. LUCAS] is recognized for 2 minutes.

Mr. KELLEY. Mr. Chairman, I ask unanimous consent that the gentleman from Texas may have the last 2 minutes, and that the committee may yield 3 minutes of its time to the gentleman. As I understand, the committee has the last 5 minutes.

The CHAIRMAN. Does the Chair understand that the gentleman yields the gentleman from Texas 3 of the 5 minutes that was reserved to the committee? The Chair will state to the gentleman from Pennsylvania that the gentleman from Texas was No. 2 on the list of Members to be recognized, that the Chair listed the Members standing as those who would be recognized and, therefore, the gentleman from Pennsylvania has no time to yield.

Mr. CHURCH. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CHURCH. The motion made quite a while ago was that the gentleman from Texas be allotted the last portion of time. That was carried even though it was against the point of order, against the order of the House. The order was not made.

The CHAIRMAN. The Chair will state that the proposition that the gentleman from Pennsylvania made was included in a consent request.

Mr. CHURCH. And no point of order was made to it.

The CHAIRMAN. And that was objected to. It was not included in the motion.

Mr. McCONNELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. McCONNELL. As I understood, the gentleman from Texas [Mr. LUCAS] was to have the last 5 minutes on this amendment. Am I correct?

The CHAIRMAN. The Chair did not so understand. If the gentleman from Texas prefers the last 2 minutes it is perfectly agreeable to the Chair.

Mr. CHURCH. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. CHURCH. I make the point of order that the Chair is in error when the Chair states that a point of order was made to the unanimous-consent request that was submitted a while ago. I listened; I was on a front seat.

The CHAIRMAN. The Chair sustains the point of order; the Chair was in error.

The gentleman from Texas is recognized.

Mr. LUCAS. Mr. Chairman, I am deeply grateful to the gentleman from Pennsylvania and other members of the committee and the House who have tried so hard to get me additional time.

It is so obvious, Mr. Chairman, that we are legislating in a vacuum that I cannot fail to remind you that the minimum wage provided in this bill or in any bill is not intended to be an American living wage. President Roosevelt when he sought enactment of his first bill back in 1938 asked for a provision guaranteeing rudimentary standards, a floor under our economy. We are not providing a living wage, because in some of our larger cities an employee cannot live on $30 a week; I grant that. So, if we are going to provide a living wage, let us raise it to $1.25 or $1.50.

Our purpose, Mr. Chairman, is to provide a rudimentary standard, as President Roosevelt asked.

I cannot go along with 75 cents. I will speak against it, as I stated a while ago when the gentleman from North Carolina [Mr. REDDEN] was addressing us. I certainly will join the membership in any amendment which it selects to my bill, but I cannot afford to go along on the 75 cents an hour because in my own knowledge I know that that is going to cause unemployment in certain sections of the United States; in the New England States, yes; and in certain sections of the far West, yes.

You are going to build a wall around those jobs if you say that a man cannot be employed at a rate less than 75 cents an hour; you will build a wall around him so that he cannot be employed at all. What if a depression comes? Are you going to prevent his working for less than 75 cents an hour to ward off starvation? Are you going to say to the employer that he cannot give a man a job and pay him less than 75 cents an hour? Mr. Chairman, 75 cents an hour is too much to set as a minimum wage.

Have we had any competent, disinterested, impartial economist testify or make any statement that 75 cents was a proper minimum wage? Clearly we have not; we had no disinterested testimony before our committee. I repeat what I said in the beginning, Mr. Chairman, that we are legislating in a vacuum. I urge you, I plead with you, to vote against this 75-cent minimum.

The CHAIRMAN. The time of the gentleman from Texas has expired.

The Chair recognizes the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT of Florida. Mr. Chairman, I favor raising the minimum wage. I testified before the House Labor Committee in behalf of such a raise. I have no quarrel with the amount of 75 cents an hour even with a great coverage, providing sufficient safeguards are established to protect against business failures and consequent unemployment, which would be the logical result of a rigid minimum wage at a higher figure than marginal businesses could stand in times of recession or depression.

I suggested to the committee three possible avenues of approach. One would be to try to work out an exemption for small and marginal businesses. Another way to solve the situation would be to tie the minimum wage to a cost-of-living formula so that in good times and high prices labor would have the high minimum wage necessary in such times to allow people to live in decency, and so that in times of recession and depression business failures and consequent unemployment would be minimized. I strongly favor the principle of tying the minimum wage to the cost-of-living formula, which principle is found in the Lucas bill now before us. I urge the adoption of this principle, and will state frankly that unless this principle is enacted or some principle to accomplish these same objectives, I will feel it necessary to vote against the Lucas bill as well as the Lesinski bill. With such a principle included, I would vote for the Lucas bill and perhaps for the Lesinski bill, the provisions of which I have not yet studied as carefully as I will. Bear in mind that in any event the minimum cannot drop below 50 cents an hour under the flexible principle. I approve of that provision, too.

Another method that could be considered would be having a regional basis of arriving at minimum wages, for it is clear that the cost of living varies greatly between various sections of our country. We all know that at the present time when the United States Government builds any sort of construction in an area, it takes into consideration the local situation in living costs when it fixes a minimum wage. Someone suggested a while ago that if people are not worth that much money an hour, turn them loose. Well, there are many mighty fine people back in my district who under the present condition of our economy might have difficulty in obtaining jobs at 75 cents an hour. There is a difference in wage levels down there, there is a difference in the expense level, there is a difference in how much it costs to live in one section of the country compared with another. We would not have to worry about this if industries in areas such as some in my district could absorb the difference but I am convinced that some of them cannot and the result would be unemployment if a rigid rate at too high a figure were set. At least this would be true in times of recession. I am convinced that it would be true to a material extent even today, at least in the rural areas which I represent as well as city areas. All of the State minimum-wage laws which I have inspected differentiate between rural and metropolitan areas. This law should at least have the Lucas bill principle of flexibility or the principle of regional differences, which I intend to offer as an amendment later if the cost of living formula proposition is defeated, which I hope will not be the case. It could not be much comfort to a man out of a job because of an inelastic minimum-wage law that someone else is making any particular amount of money.

I dislike injecting sectionalism in our debates, but I cannot close my remarks without noting that some of the strongest proponents of this legislation outside of this Congress are persons who desire to stop the development of the South as an industrial area. They fear that our favorable climate, which requires less fuel and clothing in the winter and less expenses because of the availability of agricultural products, and for other reasons, may even increase its present booming industrial growth. I trust that no Member of this House will cast a vote on any

such sectional thinking and that everyone here will allow us in the South to continue to grow industrially.

A rigid and nonflexible minimum-wage law could impede our progress and cause unemployment. I urge that the flexible provisions of the Lucas bill be retained.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana [Mr. WILLIS].

Mr. WILLIS. Mr. Chairman, I am delighted to say a few words at this time about the so-called Louisiana sugar amendment. It happens that I represent the Third District of Louisiana, where the bulk of all Louisiana sugar is produced. It is known as the Sugar Bowl of the South.

Mr. Chairman, I had nothing to do with the preparation of this amendment, nor did I know about its language until I saw the bill. However, my interest from the beginning was that there should be in both bills a clause similar to provisions included in the Lucas bill, which exempts sugar factories from overtime. As far as I know, all members of the Louisiana delegation wanted the same thing. As a matter of fact, if the Lucas bill does not prevail, I understand an amendment will be offered to the Lesinski bill to make it conform with the provisions of the Lucas bill. I intend to support such an amendment. As far as I know, the other Members from Louisiana probably will do the same thing, although they can speak for themselves.

To show that this so-called Louisiana amendment does not hold any particular lure to me, may I say that I am going to support the Lucas bill, provided that after all amendments are in the raise is reasonable, and the coverage thereof is not disturbed. I am not in favor of the 75-cent-per-hour provision for the simple reason that I not only represent the working people but also the fishing industry, the lumber industry, the farming industry, the canning industry, the sugar mills, the cotton gins, the sirup mills, and all other elements in my district. A raise of 40 cents to 75 cents an hour is a shock which my particular district simply cannot stand. This does not mean that I am not in favor of a reasonable increase in the minimum wage; on the contrary, I am for it, but I must take a position which, in my judgment, is best suited for all the people of my entire district.

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, whether or not we adopt a policy of minimum wages and maximum hours in support of our economy is not the question before this House. That question was decided by the Congress in 1938.

The question which this Congress is considering and will resolve is to what extent will the minimum wage be increased, the coverage extended, and the present law expanded. I think everyone understands this precept and will be guided accordingly in their decision.

As a general proposition, we have before us two proposals—the amended or latest Lesinski bill, sometimes refefred to as the committee substitute, though there seems to be some question that the committee ever considered it as presented, and the Lucas substitute, offered by the gentleman from Texas and now under consideration.

Mr. Chairman, like many others in this House, I believe there should be a reasonable increase in our minimum wage, in keeping with our economy, which has undergone tremendous changes in the past 10 years. To what extent we can afford to increase the minimum wage, or should increase it, establishing a sound basis, seems to me is a vital consideration in connection with this legislation.

The present amendment by the gentleman from North Carolina would increase the minimum in the Lucas substitute to a flat 75 cents, instead of the 65 cents per hour with the escalator clause tying the minimum wage to the cost-of-living index after January 1, 1950.

I am somewhat concerned about an immediate increase of the minimum wage from 40 cents to 75 cents per hour. I would much prefer to have it increased to 65 cents, as I believe it would be more in keeping with sound economic principles. This would not mean at all we are establishing a living wage at 65 cents per hour but a minimum of 65 cents that would assure those in certain categories of this additional income raising their standard of living at least to this minimum. This would in itself, Mr. Chairman, reflect an increase in our economic relationship in the higher and more equitable levels that do establish a cost of living standard.

Because of this fundamental principle and the effect or result that I am so fearful of and the real concern about what will happen to a large segment of industry in my district and others throughout the country, I shall vote against this amendment and strive to set the minimum during the course of the consideration of this legislation at 65 cents.

This does not mean, Mr. Chairman, that I do not believe that a man is entitled to $30 a week for his labors. I certainly am interested in humanity, strengthening our family life in America, affording opportunities of our workers to a decent living, but the pertinent fact which causes me concern is that we cannot afford to destroy much of our small business and thereby bring about unemployment in that we have made it impossible for certain businesses to live.

It is generally conceded that the present minimum wage is too low. It is ineffective. Most all businesses in interstate commerce covered by the present law are paying much more than the present minimum.

I have heard many Members from the well of this House express an interest in some industries that will vitally affect their own districts and similarly many other districts throughout the country.

I have listened with interest to the statements as to southern groups and particularly Democrats. I am proud of the fact that I represent a southern district. We have made great strides in the progress in the South as in other sections of the country. But this is too important to approach from a sectional standpoint. It must be determined on the basis of a sound economic program, whether it is in the South or some other section of our great Nation.

Yes, I too have an industry that is vital to my district and provides a means of living and a large segment of our economy, which I am tremendously interested in and which also gives me some concern as to what will happen to it if this amendment prevails.

I do not think there is any district or section in the country that has any more prolific southern pine sawmill industry than mine, but as this will affect me it will likewise affect many, many other districts in the South especially, because that is where this industry predominates.

I am not particularly interested in the highly mechanized large mills. I am concerned, Mr. Chairman, about the middle-class, circular-saw mills that cut green rough lumber and sell it. The mills with 25, 50, 100, and as high as 250 employees.

I have a great number of these mills in my district as many of you have in yours. I hold in my hand wires at my own solicitation conveying to me their minimum wage now is 55 cents to 75 cents. Many of them have been closed down for several months. Their lumber is on a declining market and some express a fervent plea that they cannot possibly linger on, much less continue as a strong, healthy business.

A minimum wage is not designed, and should not be, to kill small business and inure to the benefit of the larger, more efficient and highly stabilized big business. It should be to help stabilize these little businesses. The workers in these marginal industries are the ones that need the protection the greatest, they are the ones we need to help. The marginal industry is a business that needs stabilization and not penalizing.

I hope we will think seriously and try to see what the consequences will be before we act hastily here. Let us give a reasonable and justifiable increase of say some 65 cents and if conditions permit it can be further increased in accordance with the justification as only time can determine.

Now, Mr. Chairman, I do not agree with the provision of the Lucas bill in setting this minimum at 65 cents with the escalator clause. I am fearful as to what the result will be in that regard. To be sure, tied in with the cost-of-living index, taking the 1935–39 average and 65 cents as a ratio base is a highly desirable theory if in practice it would work accordingly, but I have some concern about this provision in that it establishes a 50-cent minimum on a declining economy.

I do not pose as an economist and have not the economic theory to analyze these highly technical cost indexes, but it does appear to me with the practical operation of business which determines our economy that it will start going down and down and settle on the 50-cent minimum, which I do not believe would be for the best interest and provide that decent minimum living that will give us the strong family life that we desire and strive for so desperately.

I regret also in this position I find myself in disagreement with some of my very good friends and able colleagues. I just do not believe it is practical and will work to the advantage of equitable adjustment in the lifeblood of our economy.

The difference in the two bills, aside from this amendment, as I see it, Mr. Chairman, is, first, definition of production in commerce; second, the authority determining the manner of its administration with reference to rules, regulations, and so forth, and, third, the exemptions.

The committee bill provides the Administrator would define area production and the Lucas bill provides that the Secretary of Agriculture should make such determination. It is felt in this latter substitute, the Administrator does not have the understanding of the problems of agricultural processors and of the economic facts as to what our areas of production for particular agricultural commodities are. It is thought the Secretary of Agriculture has more definite information and is better qualified to define this term.

In this respect, I think it is highly important to notice also that the Lucas bill would cover only those workers termed indispensable to production in interstate commerce. The Lesinski or committee bill provides that the coverage extends to those workers termed necessary to production in interstate commerce. This is a technical difference, but it is exceedingly important to the administration of the act and to make it clear as to whom it applies.

But aside from the amount of the minimum wage, the most interesting difference in the two bills is the specific exemptions.

One of the most active groups manifesting such an intense interest in the extension of coverage is the group referred to as retail and service establishments. Many of my people have been exceedingly interested in the language providing exemptions for these local services and this Lucas substitute is much clearer, I think, in defining the terms in this respect.

Under this proposal, the laundries, restaurants, hotels, ice companies, cleaners, and so forth, are beyond a doubt exempted specifically. So long as more than 50 percent of the annual dollar volume of the establishment's sales is made within the State in which it is located.

Now a retail or service establishment, according to this language, shall mean one 75 percent of whose annual dollar volume of sales of goods or services is not for resale and is recognized as retail sales or services in the particular industry.

In other words, this provision assures the exemption, as has been so well said, for the various local neighborhood businesses, such as grocery stores, hardware stores, clothing stores, drygoods stores, stationery stores, farm-implement dealers, automobile dealers, lumber dealers, furniture stores, and like retail establishments and services, including those previously mentioned.

In other words, this provides an exemption for the small businesses that would be difficult to administer and would find it very difficult to comply with. This confirms the intention of the Congress to protect this type of business which is so important in the economy of our Nation and referred to as retailing or servicing.

The other major difference is in the rule-making power. This has been a subject of debate since the original Minimum Wage Act. The Lucas substitute does not provide such broad authority—giving an administrator of a governmental agency the power to make laws subject to the penalties prescribed by the act.

And, finally, as I say, another major difference is that this substitute does not give the authority of the Secretary of Labor to bring suits for employees against employers. Such authority was not given in the original act, but the committee bill would authorize the Secretary of Labor to institute such actions in any court of competent jurisdiction to recover alleged unpaid minimum wages or overtime compensation.

It is true it must be with the consent of the employee as exists in many States, but this gives an unlimited authority for the Secretary to bring these suits on behalf of employees and for the Government to pay the cost of all litigation in addition to having the strong arm of the Governing bringing its force and power on the employer. This, too, has been a subject of debate and is presented here for policy determination.

If a man is due wages and unpaid compensation from an employer, he certainly should have the right to bring a suit in the courts of the land for an equitable determination, but the Government should be only the referee and not by its power or authority take the unfair advantage of one as against the other. This is fundamental in American democracy.

I fully believe these clarifications are highly necessary and people have a right to know what their status is. In this respect, this substitute is clearer and more desirable.

As already stated, I am fearful that an increase in the amount above 65 cents would work a hardship on small businesses who come under the provisions of this act and adversely affect an important industry in my district. I would regret exceedingly to see hundreds and hundreds of men thrown out of employment, and I trust the action of this committee will be in consideration of the influences that this will bring, and if the 65-cent minimum will give us that floor and economic stability in wages and living, reflecting as it will in other and higher wages and a more decent standard of living, it seems to me it should prevail.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. ENGEL].

Mr. CROOK. Mr. Chairman, will the gentleman yield?

Mr. ENGEL of Michigan. I yield to the gentleman from Indiana.

Mr. CROOK. Mr. Chairman, I am beginning to feel a little bit like the gentleman from Missouri [Mr. CHRISTOPHER]. I think that it is quite necessary that I visit all of the dentists in the District of Columbia and get some forceps so that I can extract a little time.

Mr. Chairman, I rise in support of the 75-cent minimum wage. Living in the richest country of the world, blessed with vast acres of fertile soil, bountiful resources of most every description, unexcelled industrial machinery, superb inventive ingenuity, and unlimited supplies of excellent food, it is appalling when we stop to think of the exploitation and starvation wages that are imposed upon millions of our fine citizens.

All the wealth of our land comes from soil and toil and most of it from toil. Every man and woman who toils is justly entitled to his or her fair share of the wealth created. Labor is the only thing that the laboring classes have to sell and they have a right to fix a minimum wage rate on it just the same as any one manufacturer has the right to place a price on manufactured commodities. This is an undeniable fact.

In my way of thinking, every person who toils, regardless of his arena of activities, is entitled to a reasonable living wage so that he may provide food, clothing, shelter, fuel, a few luxuries of life, education, and medical attention for his family. In addition, he is entitled to a fair remuneration for the wear and tear on his physical body while employed. Furthermore, he is entitled the privilege of reasonable security for the twilight years of his life. When any of these factors fail of consummation, the laborer has met with exploitation.

If we desire continuous prosperity for our people and healthy economy for our Nation, it is incumbent on us to give labor enough wages to assure a buying power for the produce of the farm and the manufactured products of our factories. Where can a man go on a minimum wage of 40 cents per hour? Where can he go on a minimum wage of 75 cents per hour? Those that argue against a 75 cent minimum wage should try living on the same in this age of high prices for the necessities of life.

We hear much about the iron curtain of Russia and I certainly harbor no brief for that country or its philosophy. It might be well to look at the steel curtain in this country—and you may spell "steel" one of two ways—and see who hides behind it. There are many ways of stealing from a man. The most deplorable method is to refuse him the rightful wages he earns. God forbid that I ever stoop so low.

Every time a courageous and militant fight is waged to protect the common man, the representatives of special interests call such action "socialism." Were a man to steal another person's money at the point of a gun, he would, in most instances, be tracked down and brought to justice in the courts of the land. The boys that steal behind the curtain of a 40 cent minimum wage go free to roam the land and execute further exploitation.

Reference has been made on this floor to the effect that the Divine Ruler has been with the advocates of certain legislation in this Congress and will further help them in the future. I have

seen many inferences made in this Congress but I must frankly say, this one wins the velvet-lined cooky cutter for lack of knowledge pertinent to the Ten Commandments and the teachings of the Creator. Some may never know of their folly until they are called to join the bosom of divinity to give an account of their stewardship here on this earth.

Provide a reasonable education for all our people; pay them a reasonable salary for work executed; enhance their standards of living and provide them with a few of the luxuries of life and you will be instrumental in closing the gates against the advance of communism; our foundation of democracy will be reinforced, and continuous prosperity will be enjoyed throughout America for years to come.

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi [Mr. RANKIN].

Mr. RANKIN. Mr. Chairman, in my opinion Congress has no right to pass a law to fix wages in private industry.

I took that position when the so-called Wagner Act was before the House. I was one of the 38 Members who stood up against it.

When you undertake to fix wages in a private industry, then it is your duty to guarantee the man who is operating that industry a market for his products. Then it is also your duty to guarantee a reasonable price for those products.

Otherwise you are driving the little-business man, the little sawmill man, the little operator of any enterprise out of business.

That is exactly what this kind of legislation does.

If Congress is going to adopt a program of this kind, then you should not criticize Great Britain any more for going socialist.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri [Mr. JONES].

Mr. JONES of Missouri. Mr. Chairman, it has been difficult to try to follow the recommendations of any Committee on this bill since we have had three committees apparently recommending bills affecting minimum wage legislation. In the brief time allotted to me, I intend to direct my remarkes to the amendment offered by the gentleman from North Carolina [Mr. REDDEN] wherein he proposes to strike out of the bill that provision which would provide a flexible minimum wage tied in to a cost of living index. I understand that the section which the gentleman from North Carolina [Mr. REDDEN] proposes to strike from the bill was prepared by the gentleman from Arkansas [Mr. HAYES], who gave an explanation of that provision when he went into the details of this feature of the proposed bill. I know there has been considerable misunderstanding about this proposal of a flexible minimum wage, and I think it should be made clear that there would be an adjustment not oftener than once each year. I heard a group this morning talking about the confusion that would result from attempting to change the minimum wage each time that there was a change in the cost of living. That is why I direct your attention to the section which the gentleman from North Carolina proposes to strike from the bill wherein it is stated that the minimum wage would be subject to adjustment only once each year. Also there would be a period from October 15 until January 1 in which both employer and employee could anticipate any change that might be ordered. As explained by the gentleman from Arkansas, had this provision been in the present law the minimum wage which would be in effect today would be approximately 63 cents an hour, and such a provision would have served as a protection to the worker who would be guaranteed that as the cost of living advances so would the guarantee of a minimum wage. However, under this bill, in the section which the gentleman from North Carolina proposes to strike, a floor of 50 cents is provided below which the minimum wage could not drop regardless of how low the cost of living index might drop.

My greatest opposition to the 35-cents-an-hour increase as proposed by the amendment under consideration is that it would apply not only to the minimum wage, but, in my opinion, would be used for comparison purposes, and this 87½ percent increase in the present minimum wage would be used as an argument that Congress was endorsing the principle that wages in general should be increased 87½ percent, whereas we all know that is not the intention of this Congress at this time. The 65-cent minimum proposed in the bill represents a 62½ percent increase in the minimum wage.

It is indeed most unfortunate that in the consideration of this and other important legislation that the Committee should see fit to limit not only the time of general debate, which has precluded many Members from addressing themselves to this bill, but of even greater importance has prevented the offering of clarifying amendments, not to mention the fact that in many instances neither the proponents or opponents of the important amendments have an opportunity to express their views or explain the measure.

I think the amendment should be defeated.

Mr. KELLEY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. KELLEY. Mr. Chairman, it is my understanding that the Redden amendment establishes a 75-cent minimum, and also abolishes the flexible rate, is that correct?

Mr. RANKIN. Mr. Chairman, a point of order.

The CHAIRMAN. All time has expired.

Mr. McCORMACK. Mr. Chairman, I ask unanimous consent that the amendment be again read, for the information of the members of the Committee.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk again read the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. REDDEN], to the amendment offered by the gentleman from Texas [Mr. LUCAS].

Mr. KELLEY. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed Mr. KELLEY and Mr. REDDEN to act as tellers.

The Committee divided; and the tellers reported that there were—ayes 186; noes 116.

So the amendment was agreed to.

Mr. TAURIELLO. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TAURIELLO. Mr. Chairman, let me emphasize to my colleagues that the cost of food has risen over 100 percent since 1938 when the 40-cent minimum wage was passed. The cost of clothing has risen 83.6 percent since 1938. Sixty-two cents in 1938 is worth about 40 cents today. That's how the price of the dollar has changed in the last 11 years.

These figures in themselves are reason enough for an increase in minimum wage. I just cannot understand why reactionaries should be opposed to such an increase. After all, purchasing power is the real basis of our prosperity. Low purchasing power on the part of millions of unorganized workers throughout America is what brought on the depression back in 1931 and 1932.

I think that depression was primarily caused because the average minimum wage was then about 25 to 30 cents an hour. Our purchasing power all over America dwindled to such an extent that farmers could not even get prices for their foodstuffs.

We should understand that a man who earns $1,500 a year spends 40 percent of that $1,500 for food. That is where the farmer can profit—if the head of the family is earning enough.

The farmer's prosperity is helped by raising the minimum wage. The worker's prosperity is helped. Raising the minimum wage to 75 cents will be a guaranty of continued prosperity in America. It is going to help the small-business man; it is going to help the big-business man.

It is going to keep prosperity going—and anything that can be done to provide a buffer against another depression is legislation that everybody should be for.

This bill we are debating should be passed. It is a good bill. It does not go as far as many of us had hoped it would, but it is a good bill nevertheless. If we accept this bill now, there is no doubt that within a short time we can make it even more constructive. Remember the time when the very first minimum wage bill was passed. At that time 40 cents an hour was asked, but there were not enough votes for that amount, so 25 cents was accepted. But later on that figure was increased to 40 cents, and now we are asking for 75 cents.

As for coverage, I hope that there can be included under this bill all the deserving men and women of this country who should be protected, who should receive fair compensation for their labor, instead

of the compensation they are now receiving.

Seventy-five cents an hour is a fair minimum, and I think it will help some 750,000 to 800,000 people who have not received until now the minimum to which they should be entitled.

Let us not play politics with the livelihood of our working men and women. Let us raise the minimum wage to 75 cents an hour.

Mr. COOPER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COOPER to the substitute amendment offered by Mr. LUCAS: On page 31, line 14, insert before the period the following: "; or (17) any home worker in a rural area who is not subject to any supervision or control by any person whomsoever, and who buys raw material and makes and completes any article and sells the same to any person, even though it is made according to specifications and the requirements of some single purchaser."

The CHAIRMAN. The gentleman from Tennessee is recognized in support of his amendment.

Mr. COOPER. Mr. Chairman, this is in the nature of a clarifying amendment. I have discussed it with the distinguished gentleman from Texas, author of the substitute, and, as I understand from him, the amendment is agreeable. May I ask the gentleman from Texas if that is correct?

Mr. LUCAS. I am glad to respond to the gentleman as I responded to him when he earlier approached me on this matter. I do not think the amendment is necessary in my bill, but if the gentleman insists upon its insertion I shall offer no objection.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Michigan.

Mr. MICHENER. How does this affect each group. What do they work at?

Mr. COOPER. The situation is that in my part of the country, and I assume in many other sections of the country, there are certain women, principally housewives in rural areas and on farms, who make certain crocheted and knitted articles, principally for children. There is no doubt, in my opinion, but what they are independent contractors and never were intended to be covered by this type of legislation, but in order to remove any uncertainty, and to meet the situation that was raised by one of the administrators of the Wage and Hour Division, I think it is appropriate to try to clarify the situation here.

Mr. MICHENER. It would not affect the Walsh-Healey Act?

Mr. COOPER. No; I think nothing of that kind is involved at all. It applies only to rural areas.

Mr. CHELF. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Kentucky.

Mr. CHELF. I wonder if the gentleman's amendment would cover the makers of quilts, spreads, and that sort of thing that women in the country make after hours?

Mr. COOPER. I think so, anything in rural areas.

Mr. LUCAS. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Texas.

Mr. LUCAS. I want it definitely understood that these people the gentleman wishes to exempt are not in the employ of anyone. They are simply selling things.

Mr. COOPER. That is correct. The gentleman is absolutely correct about that.

Mrs. DOUGLAS. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentlewoman from California.

Mrs. DOUGLAS. I am very much interested in the Lesinski bill now before us and also the gentleman's amendment, and to note that the men of this Congress believe that when women work they work because it is out of caprice or on account of boredom or just to pass the time away. Women work to earn their living. They work, if one studies the statistics of the Labor Department, to support their families in 80 percent of the cases.

Mr. COOPER. I do not think this has any application to what the gentlewoman from California has in mind.

Mr. REED of New York. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from New York.

Mr. REED of New York. Would this apply to the making of baskets in homes located in rural areas? Would the amendment also cover home-made or hand-made furniture?

Mr. COOPER. I do not know. It would depend on the facts of each case. Where a few baskets might be made at odd times in the home I think it certainly would come under the provisions of this amendment. If there is no time kept and they work when they please and they do not work when they please, there is no way of regulating anything of that kind under this type of program.

Mr. CRAWFORD. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Michigan.

Mr. CRAWFORD. I wish to submit this technical question. Assuming that these workers are doing this needlework, making rugs, crocheting or making lingerie or gloves or what not, under a contract, but where there is no supervision of the labor and where the material is supplied to the worker by a contractor, whether it be in the Virgin Islands, in Puerto Rico, the Southern States or somewhere else, would those workers be exempt under this provision?

Mr. COOPER. Well, I am unable to answer the gentleman categorically on a question of that kind. It would depend upon the facts of each case. But I certainly think under the facts that I have in mind, that I have endeavored to outline here, there was no intention for them ever to be covered under this type of legislation.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Michigan.

Mr. DINGELL. Will the gentleman give assurance now to the House that this clarifying amendment will in no way stimulate any sweatshop practices? I have no misgivings personally, because I know the gentleman's broadmindedness, but for the RECORD I think it should be stated clearly whether or not this would give any impetus to the restoration of sweatship practices.

Mr. COOPER. Certainly, there is no intention of anything of that kind being accomplished.

Mr. DINGELL. I am certain of it.

Mr. COOPER. Mr. Chairman, the situation sought to be taken care of by this amendment may be briefly stated as follows: There are several hundred women throughout Tennessee, mostly around Gibson County, which is in my congressional district, and the adjoining counties, who have for several years made crocheted and knitted articles of wearing apparel, principally for babies, and sold them to anybody who might want to purchase them. In recent years Mrs. Doris Harwood, of R. F. D., Trenton, Tenn., has been operating a small business from her home, about 4 miles from Trenton. She buys these articles from the women of that section, who are largely farmers' wives, who crochet garments for children and sell them to her at an agreed price and she in turn sells them to her customers.

She sometimes sells the yarn to these women as a matter of convenience, but has nothing to do with the keeping of their time nor with superintending their work, nor has any supervision or control over them, and they can sell the finished article to any other person they may desire. It is impossible for her to keep the time or keep up with them if there were any desire on her part to do so.

It is my understanding that the Wage and Hour Division of the Department of Labor through the regional office at Birmingham, Ala., has notified Mrs. Harwood that she could not buy any of this crocheted wearing apparel from any of these women unless they were physically handicapped and that they were required to have a medical certificate to this effect before they could make these articles and sell them to her.

The women that I have in mind who make these articles are housewives and women not otherwise employed. While some of them are physically handicapped and confined to their homes, yet there are some of them who make these articles in their spare time while engaged in their housework in order to make a little money. Most of them are women who have to remain in the home because of their responsibilities there and are only too happy to make some of these articles from time to time and sell them and thereby make a little money to help in meeting the expenses of their families.

It was my privilege to be a Member of Congress at the time the wage-and-hour law was passed and I feel confident that it was never the intention of Congress for it to apply in a case of this kind. I think there can be no doubt that these women are independent contractors and that it was never intended that they should be covered by the provisions of this

law. I think this amendment will take care of the situation.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

The question is on the amendment offered by the gentleman from Tennessee [Mr. COOPER].

The amendment was agreed to.

Mr. HERTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HERTER to the Lucas substitute: Page 6, after line 12, insert a new paragraph as follows:

"(o) Hours worked: In determining for the purposes of sections 6 and 7 the hours for which an employee is employed, there shall be excluded any time which was excluded from measured working time during the week involved by the express terms of or by custom or practice under a bona fide collective-bargaining agreement applicable to the particular employee."

Mr. HERTER. Mr. Chairman, this amendment is an amendment to the definitions under the act. It is offered for the purpose of avoiding another series of incidents which led to the portal-to-portal legislation and led to the overtime-on-overtime legislation.

At the present moment there is a twilight zone in the determinations of what constitutes hours of work which have been spelled out in many collective-bargaining agreements but have not necessarily been defined in the same ways.

Let me be specific. In the bakery industry, for instance, which is 75 percent organized, there are collective-bargaining agreements with various unions in different sections of the country which define exactly what is to constitute a working day and what is not to constitute a working day. In some of those collective-bargaining agreements the time taken to change clothes and to take off clothes at the end of the day is considered a part of the working day. In other collective-bargaining agreements it is not so considered. But, in either case the matter has been carefully threshed out between the employer and the employee and apparently both are completely satisfied with respect to their bargaining agreements.

The difficulty, however, is that suddenly some representative of the Department of Labor may step into one of those industries and say, "You have reached a collective-bargaining agreement which we do not approve. Hence the employer must pay for back years the time which everybody had considered was excluded as a part of the working day." That situation may arise at any moment. This amendment is offered merely to prevent such a situation arising and to give sanctity once again to the collective-bargaining agreements as being a determining factor in finally adjudicating that type of arrangement. It sounds wordy, but in effect it is a very simple amendment.

Mr. McCONNELL. Mr. Chairman, will the gentleman yield?

Mr. HERTER. I yield to the gentleman from Pennsylvania.

Mr. McCONNELL. May I say to the distinguished gentleman from Massachusetts that I favor his amendment as offered.

Mr. HERTER. I appreciate what the gentleman has said.

Mr. LUCAS. Mr. Chairman, will the gentleman yield?

Mr. HERTER. I yield to the gentleman from Texas.

Mr. LUCAS. I do not oppose the gentleman's amendment, although I must say about it as I have said about the Cooper amendment that I do not think it is necessary. The Portal-to-Portal Act was intended to cover just such situations as the gentleman describes. However, if the gentleman insists upon reenacting certain provisions of the Portal-to-Portal Act or the meaning of the provisions of the Portal-to-Portal Act in this bill, I can offer no objection.

Mr. HERTER. The gentleman's interpretation of the Portal-to-Portal Act, I am afraid, may not be shared by others who fear that there may be a loophole here. That is all I am trying to cover, to avoid the kind of misunderstanding that arose before.

Mr. LUCAS. It is my understanding that both the unions and management desire this amendment.

Mr. HERTER. So I understand.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts.

The amendment was agreed to.

Mr. WINSTEAD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WINSTEAD to the Lucas amendment: At end of line 3, page 4, strike out period, insert comma, and add the following: "and (2) forestry in all its branches and among other things includes planting, tending, cruising, surveying, and felling trees, preparing logs and other forestry products for market, delivering logs and other forestry products to storage or to market or to carriers for transpotation to maket, and all other processing of forestry products prior to the processing thereof in and about a sawmill or similar facility."

Mr. WINSTEAD. Mr. Chairman, I offer this amendment for the purpose of including forestry and logging in the definition of agriculture. The gentleman from Texas [Mr. COMBS] in his bill did include forestry and logging in the definition of agriculture. In both the Lesinski bill and the Lucas bill they have recognized the difficulty of harvesting our tree crop. The United States Government and every State in the Union have recognized forestry as agriculture by placing the administration, supervision, and operation of our State and national forests under the Department of Agriculture. I offer this amendment to take out from under the provisions of this bill the so-called log cutters and log haulers. If we have justification for taking out from under the provisions of this act the harvesting of other agricultural crops, I can see no reason why we should not do so in the case of our timber crop.

Mr. ELLSWORTH. Mr. Chairman, will the gentleman yield?

Mr. WINSTEAD. I yield to the gentleman from Oregon.

Mr. ELLSWORTH. If I recall correctly, the gentleman's amendment refers to the processing, selling, and so on, of trees up to delivery to the carrier. Does the gentleman's amendment mean delivery to a common carrier? In other words, does it include the men who are engaged in the business of hauling the logs to the place where they are taken by a common carrier? Does it include the truckers?

Mr. WINSTEAD. The intention of my amendment is to exclude all laborers who help to get these logs to the place of processing.

Mr. ELLSWORTH. That is, up to the place of processing?

Mr. WINSTEAD. That is right.

Mr. ELLSWORTH. In other words, your amendment, then, would exclude, as a part of the business of processing logs, the carrying of those logs down to the sawmill or to a common-carrier railroad, or a common-carrier water carrier?

Mr. WINSTEAD. That is right, up to the common carrier or sawmill.

Mr. ELLSWORTH. I thank the gentleman.

Mr. WINSTEAD. That is exactly the intent.

Mr. KELLEY. Mr. Chairman, will the gentleman yield?

Mr. WINSTEAD. I yield.

Mr. KELLEY. Were they not covered in the present bill?

Mr. WINSTEAD. Let me say this to the gentleman. We have this whole situation confused. Both bills exempt the employer if he employs a minimum number of 12 employees. In some areas of my section of the country some people probably employ 14 or 16 or 18 employees—what will they do? They will fire or lay off four or five or six or eight, so as to get out from under the provisions of this act. The provision in the present bill will not do, in my opinion, what some of you want to do. The bill without this amendment will confuse the issue. We will have a duplicate system in the same localities and in my opinion it will serve no good purpose except to further create opposition to minimum-wage laws by making it difficult to administer and almost impossible to comply with.

Mr. SHORT. Mr. Chairman, will the gentleman yield?

Mr. WINSTEAD. I yield.

Mr. SHORT. The amendment offered by the gentleman from Mississippi is a good one. Of course, it cannot go far enough. If we cannot get a whole loaf, we will take a half a loaf. But the gentleman is absolutely right. This bill will throw hundreds of people in this area out of employment.

Mr. WINSTEAD. Let me say further that these tree fellers and log cutters and log haulers do the job on the basis of so much per thousand feet, or on a piecework basis, rather than on the basis of an hourly wage.

Mr. McCONNELL. Mr. Chairman, will the gentleman yield?

Mr. WINSTEAD. I yield.

Mr. McCONNELL. Was this provision in the original Combs bill? Can the gentleman recall?

Mr. WINSTEAD. The definition was included specifically, but I believe in the exemptions he specified 16, but I am not too clear as to whether he had that provision.

Mr. HORAN. Mr. Chairman, will the gentleman yield?

Mr. WINSTEAD. I yield.

Mr. HORAN. Does the gentleman's amendment intend to cover sawmill workers?

Mr. WINSTEAD. No; my amendment is intended to exclude the harvesters of the timber crop, just as you exclude those who harvest cotton, wheat, and corn.

Mr. HORAN. Up to the sawmill?

Mr. WINSTEAD. That is right. In my opinion we have come to recognize forestry as a crop and I believe it should be specifically so designated that exemptions be given to forestry to the same extent exemption is granted to other agricultural commodities.

There are many reasons why we should include forestry in the definition of agriculture. These reasons may be summarized as follows:

The close relationship between the growing and harvesting of forest products on a rotating basis should be generally recognized. These activities constitute and are included in forestry.

That forestry is indeed an agricultural pursuit is evidenced by our National and State Governments in their placement of responsibility for the administration of national and State forestry programs in the respective departments of agriculture.

The terms used in describing various forest projects, separately and jointly supported by private and public agencies, are directly founded upon the concept of forestry as an agricultural project—for example, "Tree Farms," "Trees for Tomorrow," "Keep Green" programs, "Trees Are a Profitable Crop," and so forth.

Further, the harvesting of trees is equally an agricultural pursuit just as the harvesting of farm crops such as cotton, corn, or wheat is so identified.

Public agencies, Federal and State, are striving to convince thousands of small owners of wooded plots, usually bound up with farm ownership, that the growing and harvesting of trees is agriculture practiced on a long-term crop.

Thus, the incorporation of forestry and logging in the meaning of "agriculture" has been advocated not only by the industry in its own councils and in its public presentations, but also by public policy as expressed by the location of forestry agencies in the executive department under Agriculture, as proclaimed by the legislative history of the Fair Labor Standards Act, and as implied by the appropriation of public moneys.

It would only be consistent and a recognition of fact to accept as "agriculture" the proposal to include logging operations—that is, the felling of trees, trimming and cutting into suitable lengths, and transporting of logs to the sawmill or market—in the Fair Labor Standards Act's definition.

In the act itself as currently in effect the similarity of logging to agriculture is recognized but the application of the act is limited to forestry and lumber operations "performed by a farmer or on a farm as an incident to or in conjunction with" farming operations.

This limitation is certainly unrealistic and discriminatory. Is the character of forestry and lumbering operations affected by the persons performing them? Do they suddenly cease to be agriculture when performed by persons other than farmers? Inconsistency is certainly manifest here.

More than a decade ago, when the Fair Labor Standards Act was first proposed, in the discussions on the floors of both Houses prior to final enactment considerable attention was given to the problems of employees engaged in forestry operations and in the felling of trees as well as the processing and transporting of logs.

In fact, the importance given to this subject in those early proposals and discussions left the impression that forestry and logging operations, because of their identical dependence with farming upon favorable weather, would be included in the seasonal exemption finally provided in the act.

In actual practice it has not worked out that way because of the technicalities injected into the Administrator's interpretation of the term "seasonal." In the period immediately after enactment of the act several groups of employers in the lumber industry applied to the Administrator for seasonal exemptions, as provided in the act, for their forestry and logging employees.

It was assumed that such exemption would be readily granted because logging operations have always been classified as seasonal in the industry. But the Administrator's interpretation took no cognizance of traditional customs and practices, and with minor exceptions, their applications were denied.

When, as a result of the denial of these applications, it became evidence that forestry and logging operations as such could not qualify as seasonal under the Administrator's definition, lumber industry employers abandoned hope of securing the desired relief through the Administrator and have since sought to have the act amended in accordance with what is believed to be the original intent of Congress.

The identity of forestry and logging with agriculture was further accepted in several of the early proposals to amend the Fair Labor Standards Act, principal among which was the amended Norton bill, H. R. 6406, approved by the House Labor Committee in the Seventy-sixth session of Congress, 1939.

In this bill, amendment of the maximum hours provisions of the act was proposed for specific relief of employees "employed in connection with the felling of trees, logging, or operations incidental to the felling of trees or logging performed prior to, and including, delivery of the logs to a mill for sawing or making pulp."

Bills introduced in the current session of Congress provide further evidence of the acceptance of timber growing and harvesting as agriculture although some of them are discretionary in their treatment of the problem involved.

One of the bills, H. R. 4782, by Mr. COMBS of Texas, proposes the inclusion without qualification of forestry and logging operations in the act's definition of agriculture. Another bill, H. R. 5856, by the gentleman from Michigan [Mr. LESINSKI], chairman of the Labor Committee, acknowledges the premise but inconsistently limits treatment of the problem by exempting from the provisions of the act forestry, logging, and sawmilling operations only where they are performed by employees whose employer employs not in excess of 12 workers in all of such operations.

In addition to the inconsistency inherent in the treatment accorded the problem in H. R. 5856, there is evident a lack of understanding of the complex competitive relationship existing between lumber manufacturing operations, particularly in the South. The bill is discriminatory in several ways.

The exemption provided for agricultural operations in the Fair Labor Standards Act as now effective does not turn on the number of employees hired by a farmer, rather, the exemption derives from a realization of how impractical it is to apply wage-and-hour standards to so complex, unpredictable, and variable a business as agriculture. Moreover, when the House Labor Committee considered wage-hour legislation at this session, it rejected a proposal to exclude from the act's definition of agriculture large-scale farming operations. If forestry and logging are agriculture, it should not matter what type of employer is involved.

The exemption in H. R. 5856 does recognize a fundamental problem—that of providing relief for employees engaged in forestry and logging operations. But this relief should and can be provided for all employees engaged in such operations, regardless of the employer for whom or the region in which such operations are performed. The remedy is in the simple recognition of the agricultural nature of such employment in the act's definition of agriculture.

CONDITIONS SURROUNDING EMPLOYMENT IN LOGGING OPERATIONS

Logging is the process of harvesting a crop of trees in the same sense that cotton or corn or wheat is harvested. While it supplies the raw material necessary to the manufacture of lumber, logging is less similar to manufacturing than to agriculture. As a matter of fact, in the southern lumber industry, a great majority of the loggers are farmers and farm laborers.

Complete dependence upon favorable weather conditions causes logging operations to be considered seasonal by the industry. Heavy rains and snows make the woods inaccessible and impenetrable, and under these conditions logging operations must cease until favorable conditions are restored.

Some sections of the country suffer heavy rains and snows at regular periods of the year; in other sections, such as the South, heavy rains fall frequently and for extended periods throughout the year.

These conditions upset the employment schedule of logging workers for extended periods or for frequent short periods which have the same cumulative effect.

These periods of inactivity last for days, weeks, or months depending upon the season of the year, the climate in the region affected, and the degree of

precipitation. And certainly these conditions resulting from weather and climate are beyond the control of both employer and employee.

Workers who are thus deprived of employment for variable periods are further handicapped in their earning power by the provisions of the wage-hour law which prevent them from working longer hours when favorable weather conditions exist. This is true because practical employers, concerned with the problem of marketing their products, cannot afford to pay the premium costs represented by time and a half the regulate rate for all hours over 40 in 1 week.

Here, then, is a case where the provisions of the wage-hour law work in the exact opposite direction from their intent.

If so-called seasonal employees, whose opportunities for employment are adversely affected by natural conditions beyond their control, are given special treatment in order that they may make up for lost time, is it not just and proper that employees in logging operations, who are similarly disadvantaged by unfavorable weather, be given at least the same consideration?

Employees whose work is seasonal according to the strict definition of the Administrator actually have an advantage over workers employed in logging operations. According to the Administrator's requirements, workers in seasonal industries are employed and unemployed at regularly recurring periods during each year. Thus, they are able to plan on their periods of unemployment and make provisions for securing other means of livelihood to tide them over. At the same time, they know to some extent each year just how much employment will be available to them and when.

These advantages do not exist for the majority of the employees in logging operations. Their periods of employment and unemployment do not occur regularly during the same periods each year. For this reason they deserve even more consideration than the seasonally employed worker.

There are other considerations extending beyond the actual problems of the logging employees. The sawmill depends entirely upon the logging output to maintain its operation. Therefore, it is necessary for the logging operation to take full advantage of favorable weather conditions to provide sufficient raw material to keep the sawmill going.

This, in turn, jeopardizes the regular operation of the mill and at times causes lay-offs for sawmill workers due to a lack of raw material. On the other hand, if employers allow logging crews to work long hours to take advantage of weather conditions, they automatically incur an increase in the cost of production, which must be regained through higher prices; the net result will be to price the production out of the competitive market and this will result in the loss of jobs to both loggers and mill workers.

From the standpoint of the minimum wage, there need be no misgivings about exempting forestry and logging employees from the provisions of the act. It has been traditionally true in the industry that workers engaged in the logging operations have been paid wages on a scale equivalent to and more often above that in effect in the sawmill.

Therefore, if employers are required by law to pay at least statutory minimum wages to sawmill employees, natural forces peculiar to the industry will cause the same or higher wages to be paid for equivalent work in the woods.

Mr. LUCAS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, you have heard me say on a number of occasions that I am a strong adherent of minimum-wage legislation. I am so strongly a believer in it that I do not want any extraordinary exemptions put in any bill which I might sponsor. I dislike to disapprove of anything that my friend, the gentleman from Mississippi, ARTHUR WINSTEAD, might propose, but he is exempting all people in the lumber industry up to the sawmills without any limitation as to the number of people who are working for the employer. In the Lesinski bill, which we have had under consideration, there is a limitation of 12 employees. I accepted that limitation. I think it is a fair limitation because the small lumberman in the woods cannot operate in competition with the big operators, unless he has some sort of balance in his wage scale. Therefore, I do not think it would be proper for us to give a complete exemption to the entire lumber industry. I do not want my name on a bill that is used to expand the exemptions and prevent fair coverage of the Fair Labor Standards Act throughout all industry in the United States.

Mr. WINSTEAD. Mr. Chairman, will the gentleman yield?

Mr. LUCAS. I yield.

Mr. WINSTEAD. Is it not true that in your section and mine, especially in mine, we have certain areas where they log the timber out in certain seasons of the year?

Mr. LUCAS. That is correct.

Mr. WINSTEAD. And probably you could not get your logging equipment in there for more than 2 months, due to the rain and the low lands. Some small logger of necessity might need at least 20 or 30 employees to get those logs out and to continue the employment of other employees in the mill.

If you do not make that provision you will prevent the little man from getting the choice timber in the low lands, and even in my opinion the little man ought to have an opportunity to get some of it.

Mr. LUCAS. I am sure the gentleman would not disagree with me that even employers of the little man ought to have some protection in this bill. We are trying to make it fair to all industries and all people. If a man employs 20 or 30 men, I think it would be fairer to make him pay overtime, and permit the small operator, with 12 employees or less, be exempt. If the employer cannot operate with 12 men, I do not believe it is fair to his employees that they should not have overtime after 40 hours, unless the seasonal exemption enlarges it to 56 hours.

Mr. WINSTEAD. Will the gentleman yield further?

Mr. LUCAS. I yield.

Mr. WINSTEAD. Would it not be logical for the man who employs from 12 to 20 employees to either fire or lay off the number down to 12, in order to get out from under the whole bill?

Mr. LUCAS. That is possible. It is logical. We hope that this arbitrary figure which the gentleman from Michigan [Mr. LESINSKI] chose works fairly, but we have to choose some figure somewhere. I do not know what is fair. Perhaps next year we can decide, after we have operated under the present bill, either my bill or Mr. LESINSKI's bill, whether 12 men is fair, but I do not think we ought to exempt the employer who works more than 12 men in the logging industry.

Mr. WINSTEAD. Is it not true that most loggers already receive more than 75 cents per hour? Why confuse this whole thing by putting the number at 12? Why not exclude loggers from the provisions of this bill, rather than to further confuse and complicate the question?

Mr. JACOBS. Mr. Chairman, will the gentleman yield, that I may ask the author of the amendment a question?

Mr. LUCAS. I yield.

Mr. JACOBS. Do the loggers in your part of the country receive less than 75 cents an hour?

Mr. WINSTEAD. I cannot give you the exact figures, but in the past most loggers logged by the thousand, rather than by the hour. In most cases they would make more than 75 cents an hour. I do not have the latest figures, but in my opinion the vast majority make more than $6 a day.

Mr. LUCAS. Mr. Chairman, in view of the fact that small loggers are exempted up to and including 12 men, which I think is a fair exemption until it is proved otherwise, I ask the House to reject this amendment.

The CHAIRMAN. The time of the gentleman from Texas [Mr. LUCAS] has expired.

Mr. WIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise to oppose this amendment, knowing somewhat of the situation that the gentlemen have in the States in the South. I could not sit here and see this amendment, as wide open as it is, in the language I have just heard, permitted to be accepted without protest. I come from a State where we have hundreds and hundreds of men employed in logging pulpwood and forestry and agricultural work—the State of Minnesota.

Mr. WINSTEAD. Mr. Chairman, will the gentleman yield?

Mr. WIER. Yes, I yield.

Mr. WINSTEAD. Do they not all receive at least a minimum of more than 75 cents an hour?

Mr. WIER. In a number of cases, I doubt it, because they are not all organized. Many of them are typical examples of what you just did a moment ago.

First, let me say this: The House has recognized this afternoon, by teller vote, justification for the 75-cent wage. I am cognizant of the many problems that each and every man representing a district in this United States has. He wants to protect himself against criticism, he

wants to protect himself against attack by those who might be injured by legislation.

In my State you will exempt under the language of that amendment around three or four thousand men who work most of the year, and some of these men are on contract—the same as this last amendment that you accepted. I was opposed to it. I hope that this House does not go on all afternoon exempting from the provisions of the act those workers that it formerly covered.

We have not had a great deal of trouble in the past with this part of the bill. I sat in on the Labor Committee and I recognize some of the problems down in the southern lumber camps, but I cannot justify, neither can I compare, some of the problems of the South with those up in Michigan, Wisconsin, Minnesota, Montana, Washington, and all over in order to save a little situation down here.

Mr. McCONNELL. Mr. Chairman, will the gentleman yield?

Mr. WIER. I yield.

Mr. McCONNELL. As far as I personally am concerned I agree with the statement the gentleman is making in connection with his amendment and am in favor of it.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. COMBS. Mr. Chairman, I move to strike out the last word.

Mr. LUCAS. Mr. Chairman, will the gentleman yield for a consent request to see if we can limit debate?

Mr. COMBS. I cannot yield for that.

The CHAIRMAN. The gentleman from Texas declines to yield.

Mr. COMBS. Mr. Chairman, this amendment points up a matter I want to refer to. The amendment exempting certain types of small sawmill operations is one of a number worked out and incorporated in the pending bill, H. R. 5856. They were worked out with great care by a group of us fellows from the South, who know our peculiar problems and who worked with Members from the North and East to so word the exempting provisions and to so provide the machinery of application of the act as a whole so that our peculiar problems in the South could be met without affecting similar industries in other regions, which have a different system of operation.

Now, the sponsors of the Lucas substitute have lifted the small sawmill exemption from the pending bill and incorporated it in the Lucas substitute as they have a number of other provisions from H. R. 5856. Now this provision, in my judgment, will merely create confusion if you incorporated it in the Lucas substitute and it becomes a law for the simple reason that the Lucas bill in no way provides any suitable or adequate machinery of application to interpret and apply the provision, nor any other provisions for that matter.

The problem of working out wage-and-hour legislation is a complicated one. Weeks of work by a number of Members went into the preparation of the carefully worded provisions devising changes in the present administrative machinery and these administrative improvements incorporated in H. R. 5856 are put there to enable the Department of Labor to make interpretative rules and holdings to clarify the coverage provisions which must of necessity be of general terms and to make it possible for business establishments, employers, and employees everywhere to know with certainty whether or not they are under the coverage of the wage-and-hour law and to ascertain at any time whether or not they are subject to its provision and in compliance with its requirements. This will avoid innocent people, who sincerely want to comply with the law, being harassed, sued in the courts, and subjected to penalties and damages through no fault of their own. As a consequence, the provisions in the Lesinski bill exempting the small-type sawmill can be applied under the administrative provisions of the bill of which they are a part, to effectuate their intended purposes and without causing confusion and without affecting similar industries elsewhere which have no need for such an exemption. This exemption provision was designed by the framers of H. R. 5856 to meet a peculiar operation that you will find practically nowhere except in the South. It is in effect the last vestigial remains of a type of sawmill operation worked out to enable the mills to survive during that long period of economic depression and misery which followed the Civil War. We had not the capital in those days to build big industries. Discriminatory laws tended to keep our section in economic slavery for more than half a century and because of unfair freight rates and other discriminatory laws little capital came in from the outside. Now our great virgin forests are all but gone and though we do have large mill operations these little portable mills, which can be quickly transported from one location to another, are mainly engaged in scrapping operations cutting small tracts of timber. Because they are migratory and travel from place to place where there are trees to be cut, they are often referred to as "peckerwood mills." They cut the scrap timber that would not be economical for the larger mills to cut and also affords both a market for the small amount of timber a farmer may have to sell and may at the same time afford him temporary employment in the mill operation while the mill is in his vicinity. It is most seasonal, spring and summer work. Many of them go out and hire farm boys in the immediate vicinity of the mill who go out into the woods and do the logging and operate the mill, mostly on a piece time basis; they get so much for cutting a thousand feet of logs, and so forth. It is an added source of income to these small-farm people. They are the type of sawmill which is covered by this exemption. They are provided for in H. R. 5856.

I cannot conceive of one of you boys from the South not approving the Lesinski bill in preference to the Lucas substitute. It meets our problems better and it does it without injuring people in other regions. We should help them, especially when we are not injured. We in the South should not want to be in the position of crawling and asking these people from the North and East to do something for us all the time with no consideration from us for their peculiar problems. They have helped us with our farm-support program, that was nothing more than getting a decent minimum wage for our farm people. I want to know if you people from the South will desert these fellows now in the industrial sections of our Nation who have helped us in the past by adopting this Lucas substitute which may actually injure some industries in the South and put millions of people out from under the coverage of the act in the North and East who ought to remain under its protection.

Mr. KEEFE. Mr. Chairman, will the gentleman yield?

Mr. COMBS. I yield.

Mr. KEEFE. I have carefully read the provisions of both bills with reference to the lumber industry of the South, the Lesinski bill and the Lucas bill. Does the gentleman intend under that language to exempt from the operation of the wage-and-hour law the employees of the little portable sawmills, people who are engaged in the operation he has just described with so much tenderness?

Mr. COMBS. Let me say to the gentleman from Wisconsin that I do not presume to state what the framers of the bill especially meant. I will say that if we can ever get to the Democratic bill, the Lesinski bill and have it read and understood, we will meet these issues paragraph by paragraph, talking together as Americans and trying to find the answer.

Personally, I should like to see those little marginal operations I have spoken of provided for without doing violence or hurt to the people of other regions who have a different situation. Mind you, we are dealing with highly technical language, and may I point out to you that the Lucas bill is like making mud balls and throwing them at the side of a house. It cannot possibly work. There is confusion of all kinds which lurk in that bill. If you enact it into law you will rue the day. It will fill the courthouses of this Nation with litigation and harass honest people who want to know what the rights of their employees are.

Finally, I want my party to be able to offer its own bill here, even though when consideration of it is concluded I shall have to vote against it, because that is an obligation which we owe to the American people. I do hope that my colleagues on this side, at least, will not go back to the people and tell them that a Democratic bill could not even be read for amendment in this House.

Mr. LESINSKI. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, I think some explanation is necessary at this point. When I appointed the gentleman from Minnesota [Mr. WIER] as chairman of a subcommittee to get some sort of understanding with the southern group, this one item was brought to my attention. I asked the reason for it and an explanation was made.

I recall that in the testimony and the hearings on minimum wages, the biggest trouble in certain lumber districts in the South was the question of hot goods. There are little portable sawmills, or what they call the coffee-pot mills, cutting lumber out in the backwoods. The Wage and Hour Division never had sufficient police to find where this lumber was cut. When it was delivered to a concentration yard, that is where the buyer of that particular lumber was caught with the "hot" goods in his hands and naturally penalized. All of his lumber was thereupon frozen.

Are we going to protect the manufacturer of lumber and the shipper of lumber or are we going to provide sufficient police power to find that little portable mill that moves from day to day from one section to another section of the country and produces these logs? The question comes up as to which is the best thing to do.

I believe that the exemption in our bill is exactly what it should be. We relieve the actual shipper of the manufactured goods or the "hot" goods so they are not frozen.

Mr. WERDEL. Mr. Chairman, will the gentleman yield?

Mr. LESINSKI. I yield to the gentleman from California.

Mr. WERDEL. I am of the opinion that the exemption in the Lucas bill is identical with the exemption in the gentleman's bill. Is that correct?

Mr. LESINSKI. I have not read Mr. LUCAS' exemption. The gentleman realizes that bill was introduced too late.

Mr. COMBS. Mr. Chairman, will the gentleman yield?

Mr. LESINSKI. I yield to the gentleman from Texas.

Mr. COMBS. Is it not true that that provision, like a number of others, has been lifted bodily and thrown into a bill the machinery of operation and application of which are completely different from H. R. 5856, therefore cannot work in that bill?

Mr. LESINSKI. I agree with the gentleman.

Mr. LUCAS. Mr. Chairman, will the gentleman yield?

Mr. LESINSKI. I yield to the gentleman from Texas.

Mr. LUCAS. How can the gentleman criticize the Lucas bill when he admits right here he has not read it?

Mr. LESINSKI. I am criticizing the other portions of the bill; not this particular part.

Mr. McCONNELL. Mr. Chairman, will the gentleman yield?

Mr. LESINSKI. I yield to the gentleman from Pennsylvania.

Mr. McCONNELL. I understand they are identical in the provisions concerning this particular type of operation known as the peckerwood sawmill operation. Will the gentleman from Texas, who has just spoken, explain what the difference, if any, is?

Mr. LESINSKI. Sugar-coating any bill does not make the bill right.

Mr. SHAFER. Mr. Chairman, will the gentleman yield?

Mr. LESINSKI. I yield to the gentleman from Michigan.

Mr. SHAFER. I just want to say that the gentleman in his bill, as well as the gentleman from Texas [Mr. LUCAS] in his bill, are providing for the exemption of a lot more people than they realize, and that they are providing for future unemployment.

Mr. LESINSKI. I disagree with the gentleman.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. KELLEY. Mr. Chairman, I ask unanimous consent that all debate on the Lucas substitute and all amendments thereto close at 4:30.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. COMBS. Mr. Chairman, reserving the right to object, do you not think that we should ascertain what amendments will be offered? I should like personally to get a little time before that crucial vote comes.

Mr. KELLEY. Mr. Chairman, I move that all debate on the Lucas substitute and all amendments thereto close at 4:40.

The motion was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi [Mr. WINSTEAD].

The amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia [Mr. SMITH].

Mr. SMITH of Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows::

Amendment offered by Mr. SMITH of Virginia: On page 29, line 16, after "seamen", insert a comma and the following: "and employees on barges, dredges, scows, and lighters on navigable waters of the United States."

Mr. SMITH of Virginia. Mr. Chairman, I offer this amendment for the purpose of clarifying the situation a little, if possible. The bill exempts seamen. I understand in some jurisdictions employees on river barges, dredges, and so forth, are regarded as seamen but in some places they are not regarded as seamen. In order to make the matter clear, I have offered this amendment, which simply adds to the word "seamen," "and employees on barges, dredges, scows, and lighters on navigable waters of the United States."

I have discussed this amendment with the author of the substitute amendment and I have discussed it with the gentlemen on the left, and they have advised me that they have no objection to the amendment. I hope it will be agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The question was taken; and on a division (demanded by Mr. KELLEY) there were—ayes 54, noes 61.

So the amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts [Mr. BATES].

Mr. BATES of Massachusetts. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BATES of Massachusetts: On page 14, line 22, after the words "seasonal nature", insert "or in any industry engaged in the first processing or canning of fish in the raw or natural state"; and on page 29, line 23, after the word "processing", insert the following: "(except fish)", and after the word "canning", insert the following "(except fish)."

(By unanimous consent, the time allotted to the gentleman from Massachusetts [Mr. HESELTON] and the gentleman from Massachusetts [Mr. NICHOLSON] was granted to Mr. BATES of Massachusetts.)

Mr. BATES of Massachusetts. Mr. Chairman, this amendment is not one of exemption. The amendment I have offered includes the fisheries. That may seem strange, in view of the fact that 10 years ago when the original wage-hour law was adopted, representing as I do, as well as the gentleman from Massachusetts [Mr. MCCORMACK], one of the largest fresh-fish producing areas of the country, I was tremendously interested in the adoption of a new law dealing with wages and hours and possibly affecting perhaps the most perishable of all products, and I was interested to see that no great injustice would be done to the fishery industry and the workers therein.

For that reason 10 years ago I opposed the inclusion of the fishery organizations within the scope of the Fair Labor Standards Act. Since that time the industry has had a chance to adjust itself, and the standard of wages, are even better than provided in the law today.

There is no criticism that can possibly come from the industry. This is the only industry in the New England area which I know of which is exempt under the provisions of the wage-hour law today. The amendment which I have offered brings them within the law and makes it applicable to the processing and canning of fishery products.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. BATES of Massachusetts. I yield.

Mr. McCORMACK. The purpose of the gentleman's amendment is to include a group of workers in an industry. His amendment is being offered to the Lucas substitute. The group is included in the Lesinski bill. I join with the gentleman in his amendment because it certainly is a beneficial and desirable amendment. It is to include a group and not to exclude a group of workers.

Mr. KELLEY. Mr. Chairman, will the gentleman yield?

Mr. BATES of Massachusetts. I yield to the gentleman from Pennsylvania.

Mr. KELLEY. I personally will accept the gentleman's amendment. I will be glad to accept any amendment which will bring under the provisions of the Wages and Hours Act any group of employees.

Mr. BARDEN. Mr. Chairman, will the gentleman yield?

Mr. BATES of Massachusetts. I yield.

Mr. BARDEN. I have not had the opportunity to check it with the original law—that is, the law as it is now—but under your amendment you are striking out the menhaden fishermen. That is an operation peculiar to itself. They produce the fish oils and so forth. There are three operations—one in New Jersey, one in North Carolina, and one in Florida.

Mr. BATES of Massachusetts. The amendment does not deal with the catching of the fish, but entirely with the processing and canning of the fish.

Mr. BARDEN. Well, I do not object to the inclusion of the canning feature, but the processing goes further than that.

Mr. BATES of Massachusetts. It deals only with processing and canning of fishery products.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. BATES].

The amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri [Mr. SHORT].

(By unanimous consent, the time allotted to the gentleman from Minnesota [Mr. H. CARL ANDERSEN] was granted to Mr. SHORT.)

Mr. SHORT. Mr. Chairman, I thank the gentleman from Minnesota. This bill does not need a doctor, it needs an undertaker. You can amend it and amend it, but it should be buried. It is no good. I am against it. I hope my position is clear. For many years I have fought this vicious thing in vain.

All that is noble, fine, and fair—magnificent, great, and glorious would be tumbled into the ash can under this spurious, stupid, senile, and surpercillious measure, that would give something for nothing.

Of course everybody is for that. God help us to regain our senses and our decency. March you gentlemen to the seat of judgment!

Whenever they step on our toes we squeal. I do not care what State you are from, north or south of Mason and Dixon's line. This legislation is a dagger stab in the heart of liberty. It is a noose around the neck of freedom.

Imagine a bureaucrat in far-off Washington telling my people out in the Ozarks; or yours, Mr. STEFAN, in Nebraska; or yours, WALT HORAN, out in the State of Washington, how to run their business, whom they shall employ, and how much they shall pay. It is silly. It will not work.

My God, gentlemen, have we come to this in this country? It will give you a pain in the mind. I am not here to soothe your conscience. Here is a telegram from my own little home town:

GALENA, MO., *August 7, 1949.*

HON. DEWEY SHORT,
House Office Building,
Washington, D. C.:

We wish to remind you that the impending action on H. R. 3190, H. R. 5856, and H. R. 4722 contains potential ruin for the canning industry in general and ourselves and the industry in Stone County in particular. We urge that you exert your utmost to maintain the present regulation or at least to prevent such drastic measures as are at present proposed.

GALENA CANNING CO.,
J. H. HOFFMAN.

Mr. Chairman, if followed to its logical conclusion I say this to the gentlemen from Dorchester and South Boston, and I have been there very often: I do not see how we can possibly do it and look in the mirror in the morning, shave and smile at ourselves, without turning very, very red.

Now, it is up to you. If you are going to control, and tell your little employer in the small canning factories and the sawmills and the grocery stores in my district whom they shall employ, how much they shall pay, Oh, gentlemen, I would rather go back to shining shoes and selling papers. I know there are many who want to return me there, including the Abraham Lincoln from Indianapolis but not "everything made for love," who has supplanted all of the hosts in Washington.

This is bad legislation and it should be killed. It will add to unemployment. It will create monopoly. It will help the rich and injure the poor. It will aid the big boys and hurt the little fellows. You know where I stand, do you not?

The CHAIRMAN. The time of the gentleman from Missouri [Mr. SHORT] has expired.

Mr. GWINN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GWINN: On page 30, line 17, after the word "products" insert the following: "or any individual employed or engaged in procuring, handling, or transporting any agricultural or horticultural commodity prior to its first processing."

Mr. GWINN. Mr. Chairman, I agree so thoroughly with the gentleman from Missouri [Mr. SHORT].

This amendment is simply one of hundreds that ought to be offered, I suppose, to get everything clear in this type of impossible legislation. It is a clarifying amendment. The same amendment has been offered by Senator GILLETTE in the Senate. It covers the gatherers of products prior to the first processing, the gathering and the cooling of milk before it goes into the creamery or into the processing plant, the gathering of eggs and the candling of them, gathering chickens and cooling them before they go to the butcher or packer. Oddly enough, the Administrator says that the butcher and the creamery and the manufacturer are exempt, but the gathering together, the huckstering operation around the country is not exempt. This covers the gap between farmer and the first processing operation and makes such persons exempt.

Mr. WHITE of Idaho. Mr. Chairman, will the gentleman yield.

Mr. GWINN. I yield.

Mr. WHITE of Idaho. Has the gentleman read the financial statement of the Borden Co. and the other big milk companies, showing the tremendous profits they are making in gathering milk?

Mr. GWINN. This has nothing to do with the big milk companies. There is no chance there. This covers the little farmer huckster.

Mr. AUGUST H. ANDRESEN. Mr. Chairman, I yield my time to the gentleman from New York [Mr. GWINN]. I am supporting his amendment.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. GWINN. I yield.

Mr. JACOBS. Would not your amendment exempt the cold-storage houses?

Mr. GWINN. Not at all. This simply says those procuring from the farmer, handling or transporting any agricultural or horticultural commodity prior to its first processing.

Mr. JACOBS. How about the words "including cooling"?

Mr. GWINN. That is already included in the act; I do not include that in this amendment.

Mr. JACOBS. Is it not included in the gentleman's amendment: "Including cooling"?

Mr. GWINN. No; it is not in my amendment as read; it is stricken out. It is already in the Lucas bill. However, if the gentleman please, milk must be cooled at the farm or near the farm before it goes to the pasteurizing plant.

Mr. JACOBS. I agree with the gentleman, but also many other things are affected; and if those words are included there is no reason why cold-storage houses are not included.

Mr. GWINN. Cooling is not in my amendment. The copy the gentleman has before him has been corrected.

The CHAIRMAN. The time of the gentleman from New York has expired.

The question is on the amendment offered by the gentleman from New York.

The question was taken; and on a division (demanded by Mr. GWINN) there were—ayes 40, noes 71.

So the amendment was rejected.

Mr. SHORT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SHORT. Is this a bill of exemptions?

The CHAIRMAN. The gentleman has not stated a parliamentary inquiry.

Mr. LANHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LANHAM: On page 29, line 11, after the word "or", strike out all of subsection (4) through the semicolon in line 15.

Mr. LANHAM. Mr. Chairman, I hope the Members will pay attention to this amendment because I think it corrects a provision in the bill that was not intended to have the effect that I am afraid it will have. I am offering this amendment in the spirit suggested by the gentleman from Indiana [Mr. JACOBS], that we should try to perfect the Lucas bill, even though we prefer the Lesinski bill.

If you will turn to page 29 of the Lucas substitute you will see that I am simply striking out this provision: "any employee employed by an establishment which qualifies as a retail establishment under paragraph (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes the goods that it sells."

That simply means that it opens the door for, and is an invitation to, return to sweatshop conditions. It means that the J. C. Penney Co., or any of the large chain stores, can set up manufacturing establishments and produce goods that they sell in their stores without any regard to the Wage-Hour Act; whereas other local stores have to purchase merchandise made under conditions where the act does apply.

Mr. BOGGS of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. LANHAM. I yield.

Mr. BOGGS of Louisiana. It seems to me that the effect of that provision is to remove people who are now covered; is that correct?

Mr. LANHAM. I think it certainly does; and in addition it encourages a return to sweatshop conditions.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. BIEMILLER. Mr. Chairman, I rise in support of the pending amendment.

Mr. YATES. Mr. Chairman, I ask unanimous consent that the time allotted me may be given to the gentleman from Wisconsin [Mr. BIEMILLER].

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AN INVITATION TO THE RETURN OF THE SWEATSHOP

Mr. BIEMILLER. Mr. Chairman, I rise in support of the Lanham amendment. One of the most dangerous provisions in the Lucas bill is the section that this amendment endeavors to eliminate.

Some of us, I am afraid, may have rather short memories. We may forget that back in the early thirties in the national investigation of the scandalously low wages in the shirt industry of Pennsylvania wages were found to be as low as 1 cent per hour. Checks of 60 cents for 60 hours work were found in that industry. Think of that—a 1-cent-an-hour wage rate.

Long and costly strikes took place to establish a minimum wage of $5 a week for a 50-hour week—10 cents an hour. Sweatshops prevailed throughout the industry.

If I read the Lucas bill correctly, the section that is now under discussion would permit a shirt manufacturer who used his own outlets to completely get out from under the Wage and Hour Act. That would be true of other parts of the garment industry where the sweatshop has been such a notoriously bad feature of our civilization in America. Within the last 10 years as a result of the Wage and Hour Act and its forerunner, the National Industrial Recovery Act, we have succeeded in abolishing the sweatshop. I do not want to see that infamous institution return and I do not think any Member of this House really wants to see those conditions again.

It may be argued that this section is intended only to take care of small operations. Those small operations which are intrastate commerce are automatically exempted from the act. I have discussed this section with eminent lawyers and their opinion seems to be that it would open the gates and let in a large manufacturer who also runs retail outlets and would exempt his production employees.

The scandal of working conditions in the garment trades provided a major impetus to the passage of the National Industry Recovery Act in 1933 and the Fair Labor Standards Act in 1938.

It was recognized that the maintenance of free enterprise required the elimination of unfair competition arising from the heartless exploitation of labor.

The garment industry has made great strides since the Fair Labor Standards Act was passed. The decent employer need no longer be ashamed to be identified with the industry; he can pay a living wage if a reasonable floor is established below which wages of less scrupulous competitors cannot fall.

But this splendid record of achievement, affecting hundreds of thousands of workers in all branches of the cotton garment industry and in industries of similar types, including the making of artificial flowers, of infants' wear and other enterprises where small capital is required for entry into the business, appears to be endangered by this proposed exemption which would appear to remove from the protection of the act the very workers whose occupations most require the continuation of its benefits.

Clause (4) of section 13 (a) of H. R. 5894 provides for exemption from both the wage and hour provisions of the act of "any employee employed by an establishment which qualifies as a retail establishment notwithstanding that such establishment makes or processes the goods that it sells."

Does that exemption mean what it appears that it may mean? Does it mean that the employees of the shirt factory owned by a retail chain, and whose entire output goes to the retail chain, are deprived of the benefits of the minimum-wage and maximum-hour provisions of the law?

Does it mean that the employees of the large clothing plants owned and operated by retail clothiers would be deprived of the protection of the law? This would appear to be the case. Such employees are employees "employed by an establishment which qualifies as a retail establishment."

Is it intended to encourage vertical enterprises, where manufacturing and retailing are combined, at the expense of workers in the industry and at the expense of established businesses?

Clause (4) of section 13 (a) would create chaos in an industry into which order has been brought. It would encourage the return of the sweatshop, from which the Nation has only in the past decade been so happily delivered.

Mr. Chairman, I hope the amendment will prevail.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. LUCAS].

Mr. LUCAS. Mr. Chairman, I rise in opposition to the pending amendment.

Mr. Chairman, if I thought for one moment that what the gentleman from Wisconsin has said about this amendment is true I would join with him; in fact I would be ahead of him. I do not want such conditions as he has described to exist in our economy.

The purpose of the substitute is to take care of those industries or those businesses that sell 75 percent of their goods at retail and also meet the other requirements in this bill defining a retail or service establishment. There are candy kitchens and small custom tailors that have been covered by Interpretative Bulletin No. 6 of the Wage and Hour Administrator that have been held to be manufacturing establishments. Ice plants that sell the majority or in fact over 75 percent of their product at retail are covered as factories Ice plants particularly in the South and West will go out of business unless we give them this specific exemption.

You will notice how we have limited them. We have said, "recognized as a retail establishment in the particular industry." No factory is going to be recognized as a retail establishment in the particular industry. We do not want factories to enjoy this exemption. If it is a retail establishment in the industry and if it meets the other tests prescribed by the bill, then it may enjoy this exemption.

Mr. LANHAM. Mr. Chairman, will the gentleman yield?

Mr. LUCAS. I yield to the gentleman from Georgia.

Mr. LANHAM. I do not question the purpose but I am questioning the result of the provision. I think it would permit the Schwab clothing people who have retail outlets to escape and to get out from under the wage-and-hour law.

Mr. LUCAS. It is not my purpose to do such a thing as that.

Mr. LANHAM. I am certain it is not the gentleman's purpose, but that is the result.

Mr. LUCAS. I do not see how the courts could so interpret this exemption; that is, exempt manufacturing establishments, as such.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. LANHAM].

The question was taken; and on a division (demanded by Mr. LANHAM) there were—ayes 66, noes 64.

Mr. LUCAS. Mr. Chairman, I demand tellers.

Tellers were ordered, and the chairman appointed as tellers Mr. KELLEY and Mr. LANHAM.

The Committee again divided; and the tellers reported that there were—ayes 95, noes 119.

So the amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. JAVITS].

(Mr. CANFIELD asked and was given permission to yield his time to Mr. JAVITS.)

Mr. JAVITS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JAVITS: On page 4, line 21, strike out the words "in any closely related process or occupation indispensable to the production thereof, in any State." and insert "or in any process or occupation necessary to the production thereof, in any State."

Mr. JAVITS. Mr. Chairman, the purpose of this amendment is very simple. It is to test whether or not the Lucas substitute is really a restrictive bill or whether it is a clarifying bill.

Mr. Chairman, it is estimated that this little word "indispensable"—a remarkably restrictive word in any statute—that this little word "indispensable" may

throw as many as 750,000 employees in the United States who, by all previously accepted standards, are engaged in interstate commerce out from under the protection of the minimum-wage law. Mr. Chairman, that danger applies particularly to clerical and office employees, maintenance and service employees, repair-service employees, business-service employees, and many others. They will be left by the Lucas substitute completely at the mercy of a word which is apparently picked because it is of the utmost restriction and not because it is clarifying.

Mr. McCONNELL. Mr. Chairman, will the gentleman yield?

Mr. JAVITS. I yield to my colleague.

Mr. McCONNELL. The whole idea we have opposed here is the theory of bringing in certain types of people who were never intended to be brought in when this act was written. This is an effort to clarify that. Do you consider window cleaners to be in interstate commerce?

Mr. JAVITS. When employees are working for a company that is engaged in interstate commerce and their work is necessary to that commerce, they should be covered by the act. Please note that I am seeking only to continue existing law by my amendment.

Mr. McCONNELL. I think that is stretching it.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. JAVITS. I yield.

Mr. JACOBS. I wish to say to the gentleman that I support his amendment and I want to endorse what he says when he says it is a test of whether or not those who are talking about leaving people out of coverage really want to support complete coverage that was in the old act.

Mr. LUCAS. Mr. Chairman, will the gentleman yield?

Mr. JAVITS. I yield.

Mr. LUCAS. Does the gentleman intend to cover farmers working in their own irrigation ditches?

Mr. JAVITS. Certainly not.

Mr. LUCAS. If time will permit, I will answer that.

Mr. JAVITS. All I am trying to do by my amendment is to restore the language of the act which has been thoroughly interpreted. What you are seeking to do here by the substitute is something that no one has argued for before, because, unless Members vote for my amendment to restore basic coverage of the Lucas substitute back to the coverage of the act as it stands now, it is definitely an effort to take thousands and thousands of employees out from under this act who should not be out from under it. This is the acid test. This will tell us whether or not the proponents of the Lucas substitute are serious when they say it is clear and precise and clarifying, or whether their intention really is to restrict the operation of the present law and to take thousands of people out from under the protection of the Fair Labor Standards Act, as indeed this word "indispensable" in the Lucas substitute will do.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. JAVITS].

The question was taken; and on a division (demanded by Mr. JAVITS) there were—ayes 88, noes 109.

Mr. JAVITS. Mr. Chairman, I demand tellers.

Tellers were ordered; and the Chairman appointed Mr. LUCAS and Mr. JAVITS to act as tellers.

The Committee again divided; and the tellers reported there were—ayes 91, noes 133.

So the amendment was rejected.

Mr. SMITH of Kansas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Kansas: Page 30, line 5, after the word "weekly", insert a comma, strike out the word "or"; and after the word "semiweekly" insert the words "or daily", so the new line will read, "any weekly, semiweekly, or daily."

Mr. SMITH of Kansas. Mr. Chairman, all I am trying to do is to put the weekly, semiweekly, and daily newspapers in small cities and rural districts on the same basis, for we know there are many such papers that do not have a circulation in excess of 5,000. All I want is that the semiweekly, the weekly, and the small daily newspaper of 5,000 circulation or less be put on the same basis and exempt from paying the 75-cents-an-hour wage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas.

The amendment was agreed to.

Mrs. DOUGLAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. DOUGLAS: On page 30, line 19, after the word "than", strike out "seven hundred and fifty" and insert in lieu thereof "five hundred."

Mrs. DOUGLAS. Mr. Chairman, under the existing law, those telephone exchanges that have less than 500 stations are exempt. The Lucas amendment on which we are now working would raise the exemption to 750 stations. My amendment to the Lucas amendment would reduce the exemption to 500.

Mr. BROWN of Ohio. Mr. Chairman, will the gentlewoman yield?

Mrs. DOUGLAS. I yield.

Mr. BROWN of Ohio. Does not the Lesinski bill also raise the number to 750?

Mrs. DOUGLAS. Yes, it does.

Mr. BROWN of Ohio. So it is the same in both bills.

Mrs. DOUGLAS. The gentleman is correct. I am offering this amendment to the Lucas amendment in case the Lucas amendment is agreed to. I hope it is not agreed to. I hope someone, before this debate is over, will give us figures showing the difference in the exemptions between the Lucas amendment and the Lesinski bill. I think it will be found to be somewhere in the neighborhood of a million and a quarter persons who are excluded by the terms of the Lucas bill who are not excluded by the Lesinski bill.

But I want to talk about this amendment. It affects the pay of women. Ten thousand women will be exempted from coverage of the Fair Labor Standards Act unless my amendment is agreed to. I am not asking for increased coverage of telephone operators. I ask only that you do not take away the protection of the minimum wage from those who now are covered by it.

I have heard only one reason given for increasing this exemption to 750 stations. It is claimed that some telephone companies having exchanges with 495–6–7–8– or 9 stations are denying telephone service to the public because to install the additional stations will force the owners under the Fair Labor Standards Act. Such a "public be damned" attitude on the part of these companies should be investigated by the State commissions in the areas involved.

State regulatory commissions were established to protect the public against exorbitant rates. These commissions should, and to my knowledge do, take into consideration the investments, operating costs, and profits of a public utility when establishing rates for service. The management of these small telephone companies know this; the public knows it.

The increase from 500 to 750 stations would affect only 218 companies out of a total of 6,125 companies doing business in the independent field. These figures were taken from the 1949 Directory of the Telephone Industry, a management magazine. It is my understanding that all contracts held by labor unions with the Bell System provide minimum wages in excess of 75 cents per hour. I would want to point out, however, that the act itself grants the exemption to any telephone company, Bell included, and that in the event of a recession, the $10,000,000,000 American Telephone & Telegraph Co. could take advantage of this law. With 5,216 telephone companies exempt under the 500 stations formula, the addition of 218 companies, bringing the total to 5,434 out of the 6,123, does not make sense economically, will bring very little, if any, additional service to the public and has no substance in principle.

What will Congress do when pressure is brought to increase the exemption to 1,000 stations, as the United States Independent Telephone Association has requested of the Education and Labor Committee? Will we then say that because some owners are refusing to install the seven hundred and fiftieth station we will increase the exemption? Such a procedure will lead us eventually to eliminate the telephone industry from coverage. Certainly no one would agree that such a large industry should not be covered.

I become disturbed about this also because it affects only women workers. As you know, telephone workers, other than the operators, are covered. About 60 percent of all the employees in the telephone industry are women and most of this 60 percent are operators. To exempt a single occupation or job in an industry is not sound. But when the job exempted is solely a woman's occupation it strikes of being class legislation. This led me to read the record of the hearings on this legislation. A Mr. Clyde McFarlan, from Iowa, appeared for the Independent Telephone Association. Some of his remarks were interesting to say the least.

For example, his written statement to the committee says:

The work—of a telephone operator—

is not too difficult generally, the surroundings are pleasant, the work is interesting. Frequently girls are passing a pleasant interlude between high-school and marriage or married women are working to earn some pin money because their household duties do not fully occupy their time.

Such a theory for paying low wages is ridiculous. The Department of Labor has a publication entitled "Handbook of Facts on Women, 1948." On page 33 this handbook states that 44 percent of all employed women are married women and that 91 percent out of every 100 married women who work contribute regularly to family expenses. Also, 84 of each 100 women workers—single and married—support themselves and in many cases others.

There can be absolutely no justification for a policy which, in the interest of public-utility price regulation, shifts the burden of paying for telephone service from the consumer to the workers in the industry. These women are working because in most cases it is an economic necessity. Congress should protect them against employers who are naive enough to think the job of a telephone operator is a pleasant interlude.

Mr. JACOBS. Mr. Chairman, will the gentlewoman yield?

Mrs. DOUGLAS. I yield to the gentleman from Indiana.

Mr. JACOBS. May I say to the committee that we are willing to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Mrs. DOUGLAS].

Mr. MACK of Washington and Mr. AUGUST H. ANDRESEN demanded tellers.

Mr. McCORMACK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. McCORMACK. Mr. Chairman, will the Chairman state to the Committee what the situation is?

The CHAIRMAN. The situation is that tellers have been demanded.

Mr. HALLECK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HALLECK. Mr. Chairman, the time of debate has been fixed to expire at 4:40; so whatever time is taken on a teller vote as distinguished from a division vote means someone is not going to be able to speak who otherwise might?

The CHAIRMAN. The gentleman is correct.

Tellers were refused.

The question was taken; and on a division (demanded by Mr. BROWN of Ohio) there were—ayes 153, noes 108.

So the amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Washington [Mr. MACK].

Mr. MACK of Washington. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MACK of Washington to the Lucas substitute: On line 3, page 31, strike out the semicolon and all the following material down to the semicolon at the end of line 9; strike out the figure "16" in line 10, and renumber "15."

Mr. HORAN. Mr. Chairman, I ask unanimous consent that the time allotted to me be made available to the gentleman from Washington [Mr. MACK].

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MACK of Washington. Mr. Chairman, both of these bills seemingly are divided into two parts. The first part of each bill seems to be devoted to saying that all those who now enjoy wages of 75 cents an hour or more are to get minimum wage and maximum hour protection. Then the second part of both bills seem to be devoted to exclusion from the benefits of minimum wage and maximum hour protection and benefits all those who now get wages of less than 75 cents an hour.

In short, most of those who need a 75-cent wage most are banned by exemptions in these bills from being covered by the 75 cents an hour minimum wage.

One of the low-wage industries where workers are denied minimum wage and maximum hour protection by these bills is the southern lumber industry of the United States which employs 250,000 workers, most of them at a minimum wage of 40 cents or an average wage of only 55 to 60 cents an hour and who certainly are entitled, if anyone is, to a minimum wage of 75 cents an hour.

The purpose of my amendment is to guarantee to these low-paid workers of the southern lumber industry the protection of a minimum wage of 75 cents an hour and to secure for them overtime pay for any hours they work beyond 40 in any calendar week.

There is a joker in this bill. That joker is the section I propose by my amendment to take out of this bill.

This joker provides that all logging camp and lumber mill workers where the employer has 12 employees or less shall be excluded from minimum wage and maximum hour protection. If these workers are excluded, as the Lucas bill without my amendment will exclude them, their employers can pay them any wage, even 40 cents an hour, if the employer wishes. Furthermore, unless they are given the maximum hour protection granted workers in other operations and industries these southern workers may be worked by their employers for as many hours as the employer wishes without those employees receiving any payments for the overtime they are required to work.

The gentleman from Michigan [Mr. LESINSKI], chairman of this committee and author of one of the bills now under consideration, told his committee during the hearings:

In 1943, 40 percent of the employees in the southern lumber industry earned less than 60 cents an hour and 82 percent were employed at less than 75 cents an hour.

Yet despite that statement, Mr. LESINSKI's bill would elimate nearly all of the workers in this low-paid southern lumber industry from coverage under this act. The Lucas bill carries an identical exclusion for the workers of the low-paid southern lumber industry.

Now, of course, neither of these bills mention the southern lumber industry by name but they might as well have done so.

If you will examine item 15 on page 31 of the Lucas bill—incidentally, if it is left in the bill it will be a mighty unlucky one for the nearly 800,000 workers in the lumber industry of both the South and the West—you will find the provision that excludes the low-paid southern lumber workers from both the minimum-wage and maximum-hours provisions of this bill.

There is a similar provision in the Lesinski bill.

This provision does not purport to refer to the workers in the southern lumber industry, but in practice it will apply to them and them only. Furthermore, in practice, this section will deny any protection to nearly all southern lumber workers.

Everywhere in this country, except in the South, the lumber industry is paying minimum wages of $1 or more an hour. The 75-cent minimum wage therefore, will be of no effect anywhere in the lumber sections in the South where, according to the gentleman from Michigan [Mr. LESINSKI] 82 percent of all lumber workers receive less than 75 cents an hour and where 40 percent of them receive wages of less than 60 cents an hour.

The real joker in this section, however, is the clause which says that employees of logging camps and lumber mills shall be excluded from the minimum-wage and maximum-hour requirements of the bill:

If the number of employees employed by the employer in forestry or lumbering operations does not exceed 12.

The lumber industry of this country is divided into two parts, the lumber industry of the Southern States and the lumber industry of the rest of the Nation. The lumber industry of the Southern States operates 47,000 lumber mills and those 47,000 mills produce about 12,000,000,000 feet of lumber annually or one-third of the Nation's output.

The rest of the lumber industry of the United States operates 6,000 mills, only one-eighth as many as operated in the Southern States, and yet those 6,000 mills produce 24,000,000,000 feet of lumber annually, or twice as much as all the 47,000 mills of the South.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. KEEFE. Mr. Chairman, I ask unanimous consent that the time allotted to me be transferred to the gentleman from Washington.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. GRANGER. Mr. Chairman, I ask unanimous consent that my time be allotted to the gentleman from Washington.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. MACK of Washington. Mr. Chairman, in short, the lumber mills of the South are for the most part small mills. In fact, of the 47,000 lumber mills in the Southern States, 96 percent of them, or about 45,000 of these mills, cut less than 3,000,000 feet of lumber a year. A mill that cuts 3,000,000 feet or less is one that employs 12 people or less.

Thus we see that this clause which reads that lumber-industry workers shall be excluded from minimum wage and maximum hour protection, "If the number of employees employed by his employer in forestry or lumbering operations does not exceed 12," really means that the 200,000 employees of 45,000 small lumber mills in the South, are excluded entirely from the benefits and protection of the minimum wage and maximum hour provisions of the bill.

These 200,000 low-paid southern workers are excluded from the benefits of this legislation in both the Lesinski and the Lucas bill despite the fact that Secretary of Labor Tobin, in testifying before the committee, said, "I will say they"—meaning the southern lumber industry—"have one of the lowest wage rates of any industry in the country."

Then immediately following this statement by Secretary Tobin, Chairman LESINSKI, the author of one of these bills, commented that—

It is a fact that in some sections of the country they do pay very small wages so far as lumber is concerned. There is another section of the country—

Continued Mr. LESINSKI—

where they triple wages. I am talking about the West. The wage there on the average is $1.40 an hour while in other sections—

Obviously means the South—

it is 40 cents.

Mr. Chairman, I speak to you today in behalf of the 300,000 lumber workers in the States of Washington, Oregon, and California and most of whom have been voting the Democratic ticket, and most of whom are going to regard themselves as sold down the river by the Democratic Party if this provision remains in the bill.

Mr. LUCAS. Mr. Chairman, will the gentleman yield?

Mr. MACK of Washington. I yield to the gentleman from Texas.

Mr. LUCAS. The reason this amendment is in my bill is because it is in the Lesinski bill.

Mr. MACK of Washington. That is a very poor excuse for having such a discriminatory provision in your bill.

Despite the fact that the gentleman from Michigan [Mr. LESINSKI] has said the lumber workers in the Southern States are receiving wages as low as 40 cents an hours, yet, Mr. LESINSKI's bill specifically exempts most of these 40-cent-an-hour southern workers from enjoying either the minimum-wage or maximum-hour protections of his bill.

I cannot help but think that 200,000 southern lumber-industry workers are going to feel that they have been sold down the river by this Congress unless this exemption against these low-paid southern lumber workers is removed from this bill.

Likewise the other lumber workers of the Nation, especially the 300,000 of them who work in the lumber industry of Oregon, Washington, and California will feel that they, too, have been sold down the river unless this exemption of lumber-industry workers contained in his bill is removed.

The lumber output of the mills of the West, where minimum-wage rates are $1.40 an hour in the mills and about $2 in the logging camps, must be sold in competition with the one-third of the Nation's lumber output that is produced by southern labor that is paid a minimum of 40 cents an hour.

In the southern lumber industry can operate on a 40-percent wage it will undersell other lumber and thereby control the market whenever there is any slight decline in lumber consumption.

This can mean only that in any lumber-market recession our 300,000 lumber workers of Oregon, Washington, and California will be the first to be laid off and the first to become unemployed.

The western lumber workers will resent, and rightly so, I believe, the provisions of these bills which in effect excludes the 200,000 southern lumber workers from the protection and benefits of this legislation and thereby imperils the jobs of these western lumber workers.

This will not be the first time lumber workers have been sold down river by the actions of Congress.

We once had protection against the low-wage-produced lumber of Canada. That protection has been largely removed and today Canada is selling more than a billion feet of lumber in the United States annually that could just as well as not, and should, be produced in American-owned mills by American labor.

These lumber workers also are being sold down river by the British, who, using the ECA dollars our American taxpayers gave to her, placed in the first 6 months of this year 97 percent of her ECA orders for lumber in Canada and only 3 percent of them with mills in the United States. Of 226,000,000 feet of ECA-bought lumber shipped to the United Kingdom by Pacific coast mills in the first 6 months of 1949, British Columbia shipped 218,000,000 feet and United States mills less than 8,000,000 feet. This is another discrimination against our American workers that should be stopped.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

Mr. CHRISTOPHER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Permit the Chair to state that the time has been fixed, and the gentleman's name is not on the list.

Mr. GATHINGS. Mr. Chairman, I ask unanimous consent that the time allotted to me be given to the gentleman from Missouri.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri [Mr. CHRISTOPHER].

Mr. CHRISTOPHER. Mr. Chairman, I rise in opposition to the amendment.

My State and many of the other States are covered with little sawmills that employ 8, 7, 6, 10, or 5 men. They do not need to be brought under this bill; and if they are brought under it, they cannot go on and work. The bill under consideration exempts employers in the lumbering industry employing 12 men or less, and the bill is all right in that particular, and I hope the amendment presently under consideration is defeated.

Mr. KEEFE. Mr. Chairman, will the gentleman yield?

Mr. CHRISTOPHER. I am sorry; I cannot yield to the gentleman; I do not have time.

Mr. KEEFE. Your little sawmill out there is not covered.

Mr. CHRISTOPHER. I disagree with the gentleman.

Let me say to my colleague from Missouri [Mr. SHORT], who was threatening a while ago to go back to blacking boots if minimum-wage laws were continued in the United States, that I followed him, and I followed the basic principles of his party for 12 long years, and at the end of that time in his district and mine a bootblack would have starved to death at a dollar a throw because we were all going barefooted in Missouri at that time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. MACK].

The question was taken; and on a division (demanded by Mr. MACK of Washington) there were—ayes 45, noes 172.

So the amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana [Mr. LARCADE].

Mr. LARCADE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LARCADE to the Lucas amendment: Page 31, line 12, after the word "waterways", insert the words "whether or."

Mr. LARCADE. Mr. Chairman, this amendment has to do with irrigation canals. After the amendment is included in section (16), pages 31, line 10, it will read as follows: "any employee employed in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, whether or not owned or operated for profit, and which are used exclusively for the supply and storing of water for agricultural purposes."

The purpose of this amendment is to carry on the exemption of irrigation canals, which have always been exempted under the provisions of the act. This amendment is made necessary on account of a recent decision of the United States Supreme Court.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent the time allotted to the gentleman from Louisiana [Mr. WILLIS] was granted to Mr. LARCADE.)

Mr. LARCADE. I thank my colleague the gentleman from Louisiana [Mr. WILLIS].

In H. R. 5894, Mr. LUCAS attempted to cure this decision of the United States Supreme Court and included in his bill an identical amendment by Senators MILLIKIN and JOHNSON of Colorado to S. 653. But this language does not do the job because the decision in that case applied to cooperatives and the language in the bill which is included in the Lucas bill is not such as will cure the decision.

I have been advised by lawyers that this will not do the job that is sought to be done by the gentleman from Texas.

Mr. LUCAS. Mr. Chairman, will the gentleman yield?

Mr. LARCADE. I yield.

Mr. LUCAS. I regret to disagree with the gentleman. I do not want to exempt large profit-making irrigation canal companies.

Mr. LARCADE. This amendment does not exclude large profit-making irrigation canals, but only irrigation canals used in agriculture, and which are intended to be exempt under the present law under the agricultural exemptions.

The decision to which I refer was rendered on June 27, 1949, by the Supreme Court of the United States, Nos. 128 and 196, October term 1948, entitled "The Farmers Reservoir & Irrigation Co., a corporation, petitioner, 128 against William R. McComb, Administrator of the Wage and Hour Division, United States Department of Labor, and William R. McComb, Administrator of the Wage and Hour Division, United States Department of Labor, petitioner, against 196 The Farmers Reservoir & Irrigation Co., a corporation."

The Farmers Reservoir & Irrigation Co., is domiciled in the State of Colorado, and is a mutual company. It does not sell water. It distributes it only to its stockholders, who are each entitled to a limited quantity for each share of stock held. The income of the company is derived largely from assessments levied on the stockholders annually to pay for costs of operating the system. There are no profits and no dividends.

In its opinion, the Court held that—

It is conceded here that the courts below were correct in holding that the field employees are engaged in the production of goods for commerce. The petitioner, however, argues that this requires the conclusion that they are employees in agriculture. This argument rests on the fact that the activities of the company and its employees are entirely confined within the State of Colorado. The company diverts water in Colorado, stores it in Colorado, distributes it in Colorado to farmers who, finally, consume it in Colorado.

Mr. Chairman, under the very language of the opinion, I do not understand how the Court could rule that this, or for that matter any, irrigating company operating in any State and whose activities are entirely confined within Colorado or any other State for agricultural purposes was or is engaged in interstate commerce.

The definition of agriculture is contained in section 3 (f) of the present Fair Labor Standards Act, as follows:

SEC. 3 (f). "Agriculture" includes farming in all its branches, and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15 (g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

Mr. Chairman, under the intent of the Congress in the above language in defining agriculture, I cannot understand how the honorable Court could justify their opinion in the cases cited and hereinbefore discussed, and I hope to submit further in my argument how a broader and more equitable and precise interpretation of the intent of the Congress and a strict application of the term and definition of agriculture should have been sufficient to have compelled the reverse of this decision in the cases hereinbefore cited, and, as a matter of fact, the consideration and study of the question of employees employed by an employer engaged in the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for agricultural purposes in other States would certainly disclose that irrigation canals supplying water for agricultural purposes were and are within the purview of the intent of the Congress as well as covered by the exemption under the definition of agriculture.

In this connection, at this point, it might not be amiss to quote the dissenting opinion of Mr. Justice Jackson, in the instant causes under discussion:

Mr. Justice Jackson, dissenting:

If employers operating these irrigation works are so necessary to the raising of crops destined for interstate commerce that they are "producing goods for commerce" within the Fair Standards Act, I cannot agree that they are not "employed in agriculture" within its exemptions.

It is admitted that as a separate enterprise this handling of irrigation water does not bring these employees within the act regulating interstate commerce, because the water is captured, stored, transmitted, delivered, and consumed solely within one State. The reasoning by which they are nevertheless brought under the act is this: To deliver water on arid lands is so inseparable from agriculture thereon that it is to produce goods, that is, agricultural crops, for commerce.

However, 29 U. S. C., section 213 (a) (6), exempts individuals "employed in agriculture." It would seem logical that one who is producing agricultural products for commerce is "employed in agriculture." But according to the Court he is not. The irrigation activity seems endowed with some esoteric duplicity not apparent on its face. When we read 29 U. S. C., section 206 or sec. 207, the irrigator is producing crops because his activity is inseparable from crop production; but when we read on a half dozen sections and get to 29 U. S. C., section 213 (a) (6), the irrigation has been converted into a distinct and disconnected enterprise.

This paradox is attributed to the definition of agriculture in 29 U. S. C., section 203 (f), which is said to make a distinction between agricultural production "in a normal sense" and the same thing "in the special sense" of section 3 (j) of the statute, 29 U. S. C., section 203 (j). However, its text and history seem to show that the congressional purpose was not to make the agricultural exemption less comprehensive than "normal" agricultural operations but to make certain that nothing connected with farming remained subject to the act. It exempted "any practices * * * performed by a farmer or on a farm as an incident to or in conjunction with farming operations." Thus the farm exemption did not end at the line fence.

This irrigation seems to me to be "performed by a farmer" and hence, by definition, part of the operation of agriculture. Certainly the agricultural exemption is not lost because farmers pool their capital through a mutual, nonprofit corporation for no other purpose whatever than to carry water to their own arid lands to make it possible to produce crops. The only purpose of the corporate form is to limt iindividual liability for a project which is subsidiary to each farmer's main enterprise but which is beyond the means or demands of any of them as individuals. Only the landowners can become stockholders; only the stockholders can become water users, and the operating costs and capital charges are met by assessing them in proportion to their water benefits.

Employees engaged in the water operation would be on a quite different footing if it were a water company selling water to the public or the farmer for profit.

If, as the Court holds, these employees are engaged in production of agricultural crops for commerce, I do not see how it can hold that they are not engaged in agriculture. If the Court could say, "To be or not to be: that is the question," it might reasonably answer in support of either side. But here the Court tells us that the real solution of this dilemma is "to be" and "not to be" at the same time. While this is a unique contribution to the literature of statutory construction, I can only regret the great loss to the literature of the drama that this possibility was overlooked by the Bard of Avon. It will probably now be as great a surprise to the proponents of the agricultural exemption as it would have been to Shakespeare, had it been suggested to him.

Mr. Chairman, it is my opinion that the majority of the Court erred in the decision in the cases under discussion, and that the dissenting opinion of Justice Jackson is more correct in interpreting the intent of the Congress and the law and jurisprudence in this instance. No doubt an appeal will be taken to the Supreme Court, and it may be that upon further examination of the facts and the law that the decision in this case will be reversed.

Mr. Chairman, as stated in the beginning of this statement, the language inserted in H. R. 5894, which is identical with the language of amendment to S. 653 by Senators MILLIKIN and JOHNSON, of Colorado, will not exempt the Colorado cooperative as the Court has ruled that notwithstanding that the company is a mutual company; does not sell water, and that it only distributes it to its own stockholders, the company operates for profit, and under the language of the amendment referred to above the relief sought is precluded completely under the decision which I have discussed at length.

Therefore, my amendment, if adopted, would give relief not only to the State of Colorado but also would cover operations or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for agricultural purposes in any and all of the States of the Union.

While I have in mind the protection of the irrigation canals by exemption under the agricultural provisions of the present law and the law under consideration as the same affects my district and State in the growing and irrigation of rice—not only the other rice-producing States of Texas, Arkansas, and California are affected by the proper interpretation of the provision as covered by my amendment, but also many of the other States of the Union where irrigation is necessary for many other agricultural products. All of the arid States of the West and Midwest come under this provision and are affected by the decision of the Supreme Court, and unless my amendment is adopted, or a similar amendment is adopted, under notice from the Department of Labor, all of the States will be affected.

My district and State are peculiarly affected in that most of the irrigation canals are operated on a share basis, or in other words, the canal companies furnish all of the water to irrigate the rice crops for one-fifth of the crop saved, and under such circumstances, the enterprise is one of coadventure.

The water is necessary to make the crop, and if no crop is made the canal company irrigating the crop obtains no payment or benefit.

As a matter of fact, we have a decision of the Louisiana Supreme Court defining these operations.

In the case of the Riverside Irrigation Co. against Louisiana Tax Commission the court ruled and plainly sets out in its opinion that the irrigation companies are producers of rice and are also coadventurers with the farmers.

Therefore, Mr. Chairman, there is no question that where these canal and irrigation companies operate within the confines of the respective States that the traffic and business is not interstate, and that this operation is part and parcel of agriculture as defined by the present law and under the provisions of the bill H. R. 5894 under consideration, and that under these circumstances and facts that those employed by an employer engaged in the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for agricultural purposes are exempt from the law.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. LARCADE].

The question was taken; and on a division (demanded by Mr. LARCADE) there were—ayes 28, noes 85.

So the amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. COMBS].

By unanimous consent the time allotted to the gentleman from Pennsylvania [Mr. KELLEY] and the gentleman from California [Mr. DOYLE] was granted to Mr. COMBS.

Mr. COMBS. Mr. Chairman, I want to thank my colleagues, the gentleman from Pennsylvania [Mr. KELLEY] and the gentleman from California [Mr. DOYLE] for yielding me their time. I greatly appreciate their kindness and courtesy because I know that each would like to use his time himself. A while ago when I was speaking someone over on the left said, "Speak louder." He was jokingly referring to the fact that I had lifted my voice rather high and the "loud speaker" was giving forth quite a big volume. There is an amusing fact behind that. I am much older than many of you. I came up in the hard old school of stump speaking, and these contraptions are a bit new to me.

I am inclined when I get earnest to get a little bit loud. I hope I can avoid that, for I was never more earnest than I am at this moment. I want to point out briefly some of the very serious defects in the Lucas substitute and in that connection to discuss and refer to the provisions of the Lesinski bill which places the rule-making power in the Secretary of Labor and would transfer into that Department, as a part of it, the Wage and Hour Administration, all in accordance with the recommendation of the Hoover Commission, and which incidentally the Lucas substitute does not do.

Never in all of my experience have I seen a bill that failed so completely to carry out its declared purpose as the Lucas bill. Never have I seen a finished job that falls so far behind its advance notices. A tremendous outcry was made by the sponsors of that bill that the Fair Labor Standards Act needs to be clarified, and with that I agree. They said that employers and employees have to know where they stand under the law, and that they were the ones who were going to spell it out so that anyone who can read would know the answers. Let us examine now what they have come out with in the Lucas bill.

There is a great deal of new language in the Lucas bill on the exemption of retail or service establishments. What does this entirely new provision do? It introduces entirely new terms in the law. The basic test will now be some vague notion of what is recognized in the particular industry as a retail sale or retail service. No one has explained what this means, no employer or employee will know what it means, and the Lucas bill withholds from the Secretary of Labor the authority to issue regulations that will tell exactly what any provision of the law means.

Not only is the Lucas bill provision on the exemption of retail or service establishments confused and ambiguous, but it fails completely to recognize the peculiar problem of such establishments located near State borders and failing to qualify for exemption merely because they had many customers across the State line. The Lesinski bill eliminates the requirement that the greater part of the revenue of the establishment must be derived from sales in intrastate commerce. The Lucas bill does nothing about this problem. While the Lucas bill goes far out of its way to extend an exemption intended for retail selling and servicing to huge wholesaling operations, it does nothing whatever to secure for a genuine retail establishment the exemption that it now loses because of the accident of location near a State line.

In addition to using the retail exemption as a way of giving complete escape from the fair labor standards required in the law to those wholesalers who want to cut these standards and can get under the wide-open language of the Lucas bill definition of retailing, that provision of the Lucas bill also invites custom manufacturing establishments to return to sweat-shop conditions. Custom tailoring, an industry notorious in history for sweat-shop operations, and always vulnerable to a return of those conditions through contracting and subcontracting arrangements, would become retailing under the Lucas bill and would be entirely exempt from the minimum-wage and overtime provisions of the law.

The retail exemption is only one of the provisions of the Lucas bill in which any existing difficulties are multiplied many times, and in which new, vague, and undefined terms are introduced to add confusion where there was none before.

I do not have time to go into many of the utterly confusing provisions of a bill advertised as bringing enlightenment and clarification. I want to mention, however, what the Lucas bill does to a couple of problems on overtime. One of these problems is the so-called Missel formula, or what is known as Chinese overtime. Under this rule on the regular rate of pay, laid down by the Supreme Court in the Missel case, white-collar workers who work a fluctuating workweek and are paid a weekly salary get a lower rate of pay per hour the longer they work in any week. The Lesinski bill outlaws this practice, and makes a 40-hour workweek a basis of overtime pay for these workers as for others subject to the law.

Another practice under which employees have legally lost most, if not all, of the benefits of the overtime provision is the Belo contract arrangement. Under a Belo contract a rate specified in the contract is used for computing overtime, and the employee in many cases has had to work extremely long hours before he received any pay in addition to the fixed weekly payment also specified in the contract. The Lesinski bill lays down clear safeguards on this question, to prevent abuse. The Lesinski bill authorizes the Secretary to issue regulations setting forth the conditions under which such contracts may be used, and how they have to work. The Lucas bill purports to do this also, but fails to define the terms, fails to set real restraints, and fails to authorize the Secretary to issue regulations. Under the Lucas bill this provision is an invitation to abuse of Belo contracts in evading the overtime provision of the law.

A fundamental weakness, and to my mind a fatal weakness, in the Lucas bill is its complete failure to provide for the essential administrative machinery for clarifying the law. The Lucas bill fails completely to set up the procedure under which employers and employees can find out their obligations and their rights under the law. The Lesinski bill provides a grant of rule making authority under which the Secretary of Labor, operating under the full requirements of the Administrative Procedure Act, can issue clear-cut regulations defining terms in the act and setting forth how the act applies. There is nothing of this in the Lucas bill. Many other agencies of the

Government entrusted with the administration of various laws are authorized to issue such rules and regulations in the statutes under which they operate. The Secretary of Labor himself has the rule-making authority in administering the Walsh-Healey public-contract statute. The Lucas bill would deny the Secretary of Labor the same authority in administering the Fair Labor Standards Act.

Let me point out that the grant of a rule-making authority would give all persons affected by the law the full protection of the Administrative Procedure Act, which was designed to protect the interests of the citizens of this country in the administration of the law. The Lucas bill withholds this protection.

The Lucas bill not only fails to provide the administrative machinery for letting employers and employees know exactly where they stand under the law, but it adds a host of new and confusing words and concepts to the law. Let me give you a few illustrations. The present law applies to employees engaged in occupations necessary to the production of goods for commerce. The Lucas bill would change this so that the law would apply if the employees are engaged in closely related occupations indispensable for the production of goods for commerce. Does anyone know what these new terms will mean? How closely must the occupation be related? Who is in fact the man whose work is indispensable? Will anyone know the answers to these questions before years of wrangling in the courts?

In the retail service exemption the Lucas bill sets up a brand new test of what is recognized as retail in the particular industry. Recognized by whom? For how long? Does anyone have any idea of what is a retail service as it may be defined in the inner recesses of the minds of various employers in the industry?

The Lucas bill sets out to define the regular rate of pay. Let me cite a few instances of this failure to define or to provide a way of defining. Talent fees are excluded from the regular rate. How many of you here know what a talent fee is? I think that the Lesinski bill handles this question the way it should be handled. The Secretary of Labor, acting in accordance with the Administrative Procedure Act, will formulate the definition in accordance with the facts of the industries and occupations involved and in accordance with the spirit and intent of the Fair Labor Standards Act.

The Lucas bill excludes profit-sharing bonuses from the regular rate of pay. Does anyone here know how profit-sharing bonuses can be distinguished from production bonuses in a clear-cut and unequivocal way? Under the Lesinski bill the statute sets forth the general guides and the Secretary will develop the regulations putting those guides into effect. The Lucas bill contains the provision, but gives it no meaning and offers no guidance to those who must operate under it.

The Lucas bill has taken over bodily a number of provisions of the Lesinski bill. Among them are the provisions dealing with the exemptions for small logging operations, seasonal operations in sugarcane processing, small telephone exchanges, and country weeklies. The provisions dealing with logging and sugarcane processing are new. Does the Lucas bill provide any way of putting these provisions into effect so that everyone will know where he stands? In the Lesinski bill these provisions are set in the context of the administrative machinery for clarification. There is nothing of this sort in the Lucas bill.

In one case in which the Lucas bill retains a specific authority to define a term in the act, in connection with area production, the bill winds up in the wrong department. There is no point whatever in requiring the Secretary of Agriculture to define one term in a law that the Secretary of Labor is to administer.

In short, the Lucas bill fails to clarify, it fails to provide administrative machinery for clarification, and it multiplies confusion by adding new and ambiguous language that will not be clearly defined until the courts have struggled with it for 10 years.

The framers of bill H. R. 5856 carefully provided for the little marginal businesses and industries which cannot operate under a high minimum wage. They afford employment for many of our so-called little people who would have no jobs at all except for their existence because they are not qualified for one reason or another to seek and obtain employment in industries requiring skill. And we did it in a way and in connection with procedures which the bill provides that would avoid confusion and prevent misunderstanding and lawsuits.

Now in conclusion I want to offer a few observations about the parliamentary situation as it exists. The bill sponsored by Democratic leadership is the Lesinski bill, H. R. 5856, which is made in order by the rule granted upon it by the Rules Committee. The so-called Lucas bill, with Republican support, has been offered as a substitute in the nature of an amendment. Under the rules of the House, the Lucas substitute is, of course, open to amendment and has been amended during its consideration a number of times. But the pending bill, the Lesinski bill, is not open to amendment unless and until the Lucas substitute is voted down. Now, as I have said before during the debate, I think there are some changes I should like to see made in the Lesinski bill. I do not contend, as I have said before, that it will work perfectly but I do sincerely believe that it is far superior to the Lucas bill and that it will work far better in its administrative features than the existing law.

We are facing a situation where a so-called coalition of Republicans and as many Democrats as will go along with them are attempting to prevent the House from even considering the Democratic bill. They have gone to the extreme of grabbing a large number of amendments from the Democratic bill to incorporate in their hastily drawn together Lucas bill in an effort to capture as many votes as possible. Our Republican friends are not to blame, but it does seem to me that we Democrats owe to our party the obligations of helping our leadership get our own Democratic bill before the House for consideration. I should feel obligated to do that even though after the bill passed through the amendment stage I might feel it necessary to vote against it.

It carries a 75-cent minimum wage. The House evidently favors that since you have voted a 75-cent amendment into the Lucas substitute. The Republicans have tendered no bill of their own. Neither have they offered forthright opposition to the Democratic bill. They have resorted merely to a device they have used on other occasions to lend their support to a bill bearing the name of a Democrat. This is confusing to the American people. It is not a forthright facing of issues by the Republicans. I think we Democrats owe it to our leadership, who bear the heavy responsibilities of tendering and bringing to the floor for a vote the Democratic program, our help and our loyalty.

The Republicans are under no such obligations at this moment since their party has not officially sponsored the Lucas bill. It is surreptitious-behind-the-rose-bush, footsy-across-the-aisle procedure, and certainly no Republican who considers the Lesinski bill to offer the better basis of consideration is under any obligation to vote for the Lucas substitute.

A few words more and I am through.

In my youth my grandfather gave me a copy of the speech delivered in New York in 1886 by Henry W. Grady on The New South. Personally I feel that the new South which Grady only hoped for, dreamed about, and wrote about, is much nearer than the people in other regions—and in fact many in our own section—realize. We have great new industrial developments. A new day is dawning and with it a new attitude on the part of our people. Some of us here have dared to hope that Representatives from the South in greater numbers would stop looking backward to the animosities and wrongs of the past and come more and more to view the problems of our common country in the true light. I would remind you Members of the North and East and particularly you of the great industrial centers that a number of us have on every possible occasion stood shoulder to shoulder and fought with you for those things that meant so much to you and your people but have meant little or nothing to the people we directly represent. Some of us worked long and hard in conferences and otherwise in the preparation of the Lesinski bill in which we subjected to coverage all those industries of the South as well as elsewhere which compete with yours in the North and East. We filed a bill providing for a 75-cent minimum wage—we did not have to wait and put it in in a desperate attempt to grab votes. We had hoped to have the wholehearted support and help of you from the North and East who stand to gain so much from the encouragement and growth of that spirit among the peoples of the South whom so many of you have so often criticized. You can team up, if you wish, on this occasion to jerk the rug from beneath our feet by producing a situation which will not permit the direct consideration of the bill

we have helped to work out, the Lesinski bill. That, of course, is your privilege if you want to do it, but the result of such colluding, if there if such a thing as a coalition between you and dissident Democrats, will in the end bring you no true satisfaction nor will it encourage those who are struggling hard for better understanding between the peoples of our respective sections to continue their efforts. In any case, some of us have done our best and the decision rests largely with a number of you.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. COMBS. Cannot I somehow just get 1 minute? Mr. Chairman, I ask unanimous consent to proceed for 1 minute.

The CHAIRMAN. The time has been fixed.

Mr. WHITE of California. Mr. Chairman, I yield my 1 minute to the gentleman and will ask him to yield to me briefly.

Mr. HALLECK. Mr. Chairman, I must be constrained to object to that, because the time has practically run out. Many of us who wanted to speak are not going to be able to say a word.

The CHAIRMAN. Objection is heard.

Mr. ABBITT. Mr. Chairman, I offer an amendment, which is at the desk.

The Clerk read as follows:

Amendment offered by Mr. ABBITT: Page 31, line 5, after the word "processing", strike out the word "or."

Line 6, after "transporting", insert a comma and the words "or sawing."

Lines 6 and 7, after the word "products" strike out "prior to the completion of the processing thereof."

Mr. ABBITT. Mr. Chairman, the whole purpose of this amendment is to clarify exemption No. 15 so that the sawmill operators employing 12 employees or less will be exempt. We all understand it, but from the language of the Lesinski bill and the Lucas bill it does not exempt actual sawmill operation even though they employ 12 men or less. The only purpose of this amendment is to so clarify the Lucas bill that we will know that these small so-called pecker-wood sawmills are exempt.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. ABBITT] has expired.

Mr. LUCAS. Mr. Chairman, I have no objection to the amendment offered by the gentleman from Virginia.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. ABBITT].

The amendment was agreed to.

Mr. BENNETT of Florida. Mr. Chairman, I offer an amendment which is at the desk.

The Clerk read as follows:

Amendment offered by Mr. BENNETT of Florida to the amendment offered by Mr. LUCAS: Page 13, line 4, after the period insert "Upon request of a governor of any State or upon other proper showing the Secretary shall have an investigation made of the effect of this law in any such State and may thereafter from time to time modify the minimum wage in any such State to an amount not lower than 60 cents an hour nor more than 75 cents an hour after a finding by the Administrator, in case of lowering such rate, that to leave the minimum wage at a higher rate would endanger employment in such State, and, in case of raising such rate, that to do so would be in accord with the principles of this legislation without endangering employment in such State."

Mr. BENNETT of Florida. Mr. Chairman, the purpose of this amendment is very simple. I hope that all of the Members of the House will vote for it, because it is not anything that endangers this law one way or the other. It is something which the Administrator can turn down if he desires to do so. All it does is to say that if a governor of a State requests an investigation, or upon other proper showing to the Administrator, the Administrator may—he does not have to, but he may—after such an investigation, find that employment is being endangered in this particular State and may then drop the minimum wage as low as 60 cents an hour in that State. This is the regional provision to which I referred earlier in this debate. It is permissive only, not mandatory. The Administrator may not drop the rate to less than 60 cents in any event; and he can do this only in case employment conditions would otherwise be endangered in the State involved.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida.

The question was taken; and on a division (demanded by Mr. BENNETT of Florida) there were—ayes 59, noes 108.

So the amendment was rejected.

Mr. HOLIFIELD. Mr. Chairman, I ask unanimous consent that all Members who wish to may be allowed to extend their remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GREEN. Mr. Chairman, H. R. 3190 will correct an injustice to a group of workers who are economically defenseless. It will assure the carrying out of the purpose of Congress in 1938 in providing for an effective minimum wage. It will remedy the ravages in this rate which have been caused by the wartime and postwar increases in the cost of living. It will bring back again to the worker at the minimum the protection against wage cutting and against unscrupulous employers who gave no thought to the human needs of their workers to earn a decent living wage.

Minimum-wage legislation is comparatively new in this country. Although the first minimum-wage law was passed in 1912, it was not until 1937 that the shadow of unconstitutionality was clearly lifted by the Supreme Court. There are now minimum-wage laws in 26 States, the District of Columbia, Puerto Rico, and Hawaii. These laws have worked out satisfactorily. However, these State laws cannot be depended upon to do the whole job of protecting the most economically defenseless workers. Except for four States, these laws apply only to women. By and large, they have been less successful in dealing with employment in producing goods in competition with production in other States, since there is the continuous objection by manufacturing and other employer groups that business would be driven outside the State if the minimum-wage rates reached a more reasonable level. In consequence, national minimum-wage legislation is necessary to protect the workers of employers in interstate commerce or in the production of goods for interstate commerce against unfair competition across State lines. The representatives of the States themselves clearly recognize this, and in the 1948 National Conference on State Labor Legislation the representatives of 43 States without dissenting vote urged that the Congress sharply increase the minimum and make the law broadly applicable.

H. R. 3190 is an important component in fulfilling the country's pledges to its veterans in making it possible for them to achieve more nearly the way of life for which they fought so courageously. The House has recently debated a bill to provide pensions for veterans when they become old. Pressing living needs of the veterans and their families, however, cannot wait until the veterans have passed 60. Their children need food, clothes, and shoes, and they need them now. H. R. 3190 will directly benefit nearly 2,500,000 veterans and nonveterans alike, who by this bill would be raised to 75 cents.

The bill would provide wage increases for this large number of workers, although most of these now receive only 5 or 10 cents less than the proposed minimum. As a result the net effect on the total wages will not be very great. The Secretary of Labor has estimated the total direct effect would be less than 1 percent. In addition to these direct effects, however, there will be highly important and desirable indirect effects in bolstering the wage structure of the entire country and preventing a continuation of the wage cuts which have already begun in some sections of the country, and which have been aimed primarily against the lowest paid workers, the economically defenseless workers who are unorganized and who are unable to resist the arbitrary and drastic reductions in their living standards which these cuts may mean.

I do not want to suggest that the great majority of employers want to exploit their lowest paid workers. I do not believe that is the case. However, we would be shutting our eyes to the plain facts of our economic life if we do not realize that there is an unscrupulous minority who would do anything to get a larger profit. In competition with this group, the more conscientious employers may be forced as a matter of economic survival to cut the wages of their employees also, particularly those who are unorganized.

I do not want to cry deflation. I believe the fundamental economy of the country is sound. I am firmly convinced, however, that the more adequate minimum wage of 75 cents will help ward off deflationary tendencies and cut short that vicious spiral of cutting wages and purchases which so badly aggravated the depression of the early 1930's.

The 75-cent minimum would also help improve the productivity of the country. An underpaid worker is not a contented worker. A worker who is unable to have sufficient food for himself and who is worried about rent money and food and clothing for his children cannot be at his best in producing fast and well. I fully anticipate that the very modest increase in wage costs which this bill would entail would be more than compensated by the increase in efficiency of our lowest paid workers.

I know of no better time than the present to make good the promise of the 1938 Congress in providing for a 40-cent minimum. Business is at a turning point. An increase in the minimum 2 or 3 years ago might have given an additional push to inflationary pressure which was already strong, and in the absence of adequate price-control provisions might have gotten far out of hand. If we should wait until a serious recession develops, many businessmen may feel there are serious difficulties in adjusting to a higher minimum. However, profits are now at a record peak, the economy is basically sound, and an increase in the minimum would do little more at the present time than provide for a bulwark to the economic structure to help prevent a sharp downturn.

Congress will not do the full job, however, if it merely increases the minimum without making adequate provision to assure that workers actually are employed in accordance with the fair labor standards which Congress set up. The provisions of the present law to enforce the minimum wage and overtime provisions are pitifully weak. Congress has given no agency the power to collect the back wages which it declares are due workers under the Fair Labor Standards Act. As a result of this serious omission, together with a weakening of the statute by the Eightieth Congress, only 30 percent of wages found due on inspection are paid to workers. This is shameful. This is an outrageous flouting of the will of Congress. Congress needs to and should take appropriate steps to make sure that its purpose and intents are not disregarded by those who can and do escape all too easily from the consequences of their breaking this law.

One of the necessary steps to correct this situation is to give to the agency administering the law the power to collect wages which are due workers under the law. In many States which have minimum-wage laws, the State governments have this power and regard it as an essential part of their administrative powers. The existence of this right would plug up a very serious loophole in the present law. It would mean that employers can no longer gamble that their underpaid and unorganized workers will not dare to bring back pay actions against them.

I spoke a moment ago of the need to protect the more conscientious employers against the low wage policies and practices of their competitors. It is not enough, as I am sure the House recognizes, to establish standards in the law for this protection unless we at the same time provide that the standards will become fully effective. The law-abiding employer who tries conscientiously to live fully within the law is at a continuous disadvantage in competition with those employers who will evade the law if the odds for their doing so successfully are high enough. H. R. 3190 would permit the Secretary of Labor to collect the unpaid minimum wages and the unpaid overtime compensation which we in Congress declare as a matter of law should be paid. There is nothing of punishment in this. There is nothing in the way of a monetary fine or provision for liquidated damages. There is merely assurance that wages legally due employees under the act shall be paid to those employees, and that employers who try to skirt the law shall not thereby gain a competitive advantage by depriving their unpaid employees of the wages Congress declare they should have.

The power of the administering agency to collect wages found due is of paramount importance for making sure that workers get the wages due them. Employers are not permitted to overlook the debts due other people and they should not be permitted to shrug off the wages due their employees.

We should remember, however, that only about 5 percent of the establishments covered by the act are inspected every year. Under a 2-year statute of limitations, the chances are very great that a given employer will be able to get by without paying for wages Congress intends workers to have under the act. I believe, therefore, that a second improvement of the enforcement provisions is also vitally needed. This improvement is an extension of the period for which workers can sue for back wages. Under the Portal to Portal Act, Congress limited this period to 2 years although 2 years was far shorter than the period most of the States had for back wage claims and is also far shorter than the period permitted the creditors of the workers in enforcing claims against the workers. I believe this is the grossest type of discrimination against the workers.

H. R. 3190 would increase the statute of limitations from 2 to 4 years. This is still short of the time for which most of the employees' creditors may bring action for debts of the workers, but at least it is a long step toward correcting a basic injustice.

The Eightieth Congress provided for a 2-year statute of limitations in the Portal to Portal Act. Since the portal-to-portal claims which the Eightieth Congress wanted to outlaw were taken care of by other means, the 2-year statute of limitations was unnecessary for that purpose. I have been unable to find anywhere in the record that any consideration was given by the Eightieth Congress to the effect of a 2-year statute of limitations on the general enforcement of the act, nor have I been able to find any evidence that the Eightieth Congress gave any attention whatsoever to the needs of the unpaid worker who would be deprived by a 2-year statute of limitations of the wages Congress believes are due him.

It cannot be denied that he would be and is deprived of his lawful wages by this unreasonably short statute of limitations. The average unorganized worker for whom the act was primarily designed is no lawyer, he has had no experience with the processes of litigation and in fact he is a little frightened by them. In any case he has no money to gamble on litigation the outcome of which necessarily would be uncertain.

If he suspects he is not paid what the law requires, and I want to emphasize many of them do not know this, his natural reaction is to complain to the Wage and Hour Division. It may take some time for an inspection to be scheduled, and additional time is consumed by giving the employer the opportunity to pay voluntarily the wages due his employees. By this time several months will have elapsed, and it is not unlikely that half of the 2-year period will have gone by. The Fair Labor Standards Act provides that an employee who has not been paid the minimum-wage or overtime compensation required under the act may receive an additional equal amount of liquidated damages, but the Eightieth Congress provided that no liquidated damages need be assessed by the court if it believed that the employer had acted in good faith, whatever that might mean, with respect to violating the wage-and-hour law. In consequence, the employee, even if successful, stands to gain no more than a few dollars, and the risk is simply too great for him to take the chance of discharge or discrimination which may result, even if he is successful in the litigation.

A 2-year statute of limitations cuts in half the average period which the employees could use in collecting their back wages under the act, pursuant to the State statute of limitations. A 4-year statute, consequently, would restore approximately the average period which was available prior to the knifing of the act by the Eightieth Congress.

A 4-year statute of limitation means a shorter period for the collection of wages which are due them than was true in most of our industrial States before the enactment of the Portal Act. My own State of Pennsylvania had a 6-year statute of limitations, for example. New York, New Jersey, Michigan, Massachusetts, Wisconsin and other States also had a 6-year statute of limitations. Illinois, Missouri, and West Virginia were among the States which had a 5-year statute of limitations. The average State statute of limitations was approximately 4 years, a figure which I believe consequently is not unreasonable.

Congress will take long steps forward in helping the most needy workers of our country if it raises the minimum wage to 75 cents for the workers who would be covered by H. R. 3190, and if it also takes the two necessary enforcement steps which H. R. 3190 also provides for, that is, empowering the Secretary of Labor to collect back wages due under the act and providing a decently long statute of limitations for workers to sue on their own behalf. I strongly urge that these provisions be accepted.

Mr. HARVEY. Mr. Chairman, the question of applying the minimum-wage law to rural telephone companies is of

great importance to the rural communities of our country. Rather than spending time commenting on the entire picture it would seem that a concrete illustration would be a more practical approach to the problem. I would be opposed to the removal of the present exemption of telephone exchanges with less than 500 stations—and they are rural—from the wages-and-hours law.

It was my responsibility to serve as the unpaid manager of our local telephone company for 6 years. This company was organized as a stock company in 1905 and during that 43-year period has not paid a cash dividend, but has rendered great returns as a service to the community. This is typical of most of the rural exchanges in Indiana and as I recall there are over 200 of them.

We are paying our operators 40 cents per hour and providing around-the-clock service. This amounts to $9.60 per day or in excess of $3,500 per year for operator hire only.

Our gross receipts for the past fiscal year were $7,927 after taxes. The operators receive 44 percent of our revenue.

Other items such as pay to a part-time lineman, a bookkeeper, and additional help for line-reconstruction, right-of-way clearing, and phone installation took $2,585.

This left our company $1,156 for purchasing new equipment, poles, and repairs.

You can readily see that if we were required to raise our minimum wage to 65 cents per hour it would increase our operating costs by $6 per day or almost $2,200 per year. Since a recapitulation of our financial statement shows that this increase would have to come from an increase of phone rates, it follows that this would cost each of our 200 patrons almost $1 per month or $11 per year.

Already our rates are high and any increase would surely result in losing many of our patrons. Our only alternative would be to raise the rates again, only to lose more patrons. This vicious cycle would shortly deprive our community of telephone service.

We have two large telephone utilities in Indiana. I can say to you truthfully, that, neither of them would take these rural companies as a gift. So that the farmers would be deprived of telephone service.

In conclusion may I say that if the Senate passes RTA, as did the House, we will have provided the machinery for consolidation of our rural companies. They could and doubtless will be operated just as our REA cooperatives are now being operated. The amendment that I successfully offered to the RTA bill of the gentleman from Texas [Mr. POAGE] was offered with the thought that the rural telephone companies would consolidate.

In consolidating these small rural companies, an economical, efficient-sized unit will be achieved. And it will be done in such a way that our farmers will be guaranteed better service.

The enlarged resulting companies will then come under the provisions of the wages-and-hours laws.

Please believe me this is the safe and sure way to guarantee continued telephone service to the farmer and eventually higher wages for those who are employed to render the service.

An arbitrary decision by the Congress to eliminate the present exemption to small rural telephone companies will render a great disservice to the farmer patrons and employees alike.

Mr. BLATNIK. Mr. Chairman, I rise to speak on the minimum-wage bill, H. R. 5856, which is now under House consideration. I am supporting this bill, and shall vote for its final passage, but I do so with many regrets. I have for some time advocated the raising of the minimum wage to at least 75 cents per hour, and the extension of the Fair Labor Standards Act to all gainfully employed workers, with a few minor exceptions. But this bill fails to provide coverage to millions of American workers, and it is therefore most unsatisfactory to those of us who seek to advance the welfare of the American working man and woman.

Let me examine the major provisions of this bill, and point out its effects. It has good points as well as weaknesses. On one hand, it raises the minimum wage from 40 to 75 cents per hour, and strengthens the child-labor provisions of the Fair Labor Standards Act. I am in full agreement with these two objectives.

On the debit side, the bill suffers from weaknesses of omission and of commission. It exempts from coverage many workers who now enjoy the protection of the Wage-Hour Act—for example, many employees of retail establishments, newspapers, and telephone companies are removed from coverage. Newspaper-delivery boys, taxicab drivers, employees of small lumber and sawmill operations, and workers in sugarcane processing are also eliminated from the benefits of the law.

The bill fails to extend coverage to millions of workers who have never had the protection of the minimum-wage law, and thus continues to leave these workers at the mercy of sweat-shop employers. Among the blocks of workers denied protection are all agricultural workers, bus and streetcar operators, fishermen and fish processing employees, and many others.

As a result of many new exemptions and continued old exemptions, the net gain in workers' coverage over the existing law is only about 600,000 employees.

I need mention only a few statistics to demonstrate the inadequacies of this bill. There are today some 22,600,000 workers out of the 58,000,000 gainfully employed who are covered by the present 40-cent minimum wage. About 20,000,000 are covered by the 40-hour-week clause. Since less than 1,500,000 workers covered by the present law receive less than 75 cents per hour today, it goes without saying that the rejection of proposals to extend the coverage of the Wage-Hour Act to new industries amounts to cutting the heart out of the pledges made to labor by the Democratic Party on the minimum wage issue.

In short, this proposal will affect only about 2,000,000 workers. Of these, 1,500,000 workers now covered will receive wage increases up to 75 cents per hour, and about 600,000 workers outside the law today will be given coverage. This is very little to offer the workers of America in view of campaign promises made to them a year ago.

MINIMUM WAGE IS SOUND ECONOMICS

Mr. Chairman, there are three major reasons why the minimum wage should be increased to 75 cents per hour, and the coverage of the Fair Labor Standards Act extended to the vast majority of the workers. In the first place, there are the humanitarian aspects. We have not yet eliminated sweatshops and sweatshop conditions in American industry, and millions of workers are now receiving substandard wages and are victims of the worst kind of exploitation. By a statutory minimum wage, based upon the wage level needed to provide a decent standard of living, we can place a floor under wages and thus eliminate sweatshop conditions in America.

Secondly, a high minimum wage will tend to protect the Nation against depression by maintaining consumer purchasing power to buy the goods of industry and the produce of our farms. During recent months we have witnessed the growth of economic recession in this country. Unemployment is rising, factories are shutting down, and farm income has fallen. One of the major reasons for this dangerous development has been the reduction in consumer purchasing power resulting from substandard wages, shorter workweeks, and factory lay-offs. By placing a floor under wages, Congress will be taking action to bolster purchasing power, in the interest of American prosperity.

Finally, minimum-wage legislation is good for business. It is a well-known fact that sweatshop operators are cutthroat competitors who are able to undermine the competitive position of other businessmen. These sweatshop employers exploit their workers by long hours and starvation wages, and are thus in a position to cut prices at the expense of the ordinary firm that pays a fair wage. Thus raising of the minimum wage and extension of the coverage of the law to all industries protects not only the worker, but also the employer who has or wants to have a progressive labor policy. But to exclude many industries and classes of workers from the law, as does H. R. 5856, is to perpetuate a system of unfair competition.

OPPOSITION STRATEGY

The opposition to adequate minimum-wage legislation comes from those in several categories. There are those who come out honestly and in a straightforward fashion against the whole concept of regulation of wages and hours by the Federal Government, and urge its repeal. Then there are those who mask their opposition to the law by seeking to emasculate it through one exemption or another. Their approach is to retain the empty shell of the law, with its minimum wage and 40-hour week before overtime, but to eliminate substandard groups of workers from coverage. The opposition in the latter category would

be willing enough to raise the minimum to $1 or $2 per hour, providing that we removed all workers from coverage.

It seems to me that the House Labor Committee, in reporting H. R. 5856, has become the victim of this second opposition approach. It is my frank opinion that this committee, whose membership I hold in the highest regard, has nevertheless in attempting to appease the reactionary opposition found itself in a position where it is "carrying water on both shoulders." The bill we now have before us represents a compromise with the enemies of labor and with the campaign pledges of the Democratic Party. And events have shown that you cannot compromise with reaction.

It is my firm conviction that it would have been better strategy to stand firmly behind the original administration bill, H. R. 3190, which proposes to extend minimum-wage coverage to at least 5,000,000 additional workers. I shall vote for this bill if given an opportunity. It is always better to stand firm on principle. The opposition is never satisfied with concessions until principle has been compromised out of existence. It is high time that we learn the lessons of past battles and make use of these lessons in our efforts to enact the Fair Deal into law.

In conclusion, Mr. Chairman, I wish to express again my support of H. R. 5856. But I also want to go on record as saying that economic conditions require that Congress come forward with an adequate minimum-wage law to stabilize wages at a high level and give real protection to all the workers of America. This bill falls short of this objective, and thus I support it with many reservations, and shall continue to work to redeem our campaign promises to labor for a real minimum-wage bill.

Mr. HOLIFIELD. Mr. Chairman, the 65-cent minimum wage proposed in the original Lucas bill was inadequate. Three years ago the Senate passed a bill providing for a 65-cent minimum and everyone knows what has happened to wages and prices since then. The Lucas bill would further tie the minimum to fluctuation in the cost-of-living index. But why should not increased productivity be reflected in the minimum wage? Why should not employees at the lowest-wage levels share in the benefits production? The benefits of increased productivity go to business in the form of higher profits, consumers in the form of lower prices, organized labor in the form of higher wages. But what about the unorganized worker? We should set a figure which will provide something that approximates a decent minimum standard of living for our low-paid workers, help to maintain purchasing power, and protect a level of national income which will enable us to meet our fixed monetary commitments.

I know that some of my colleagues will say that I am for a 75-cent minimum because I represent a high-wage area where such a minimum would have no effect and that I therefore seek to improve the competitive position of my constituents at the expense of other sections of the country. Well, it is true that employers in my district pay high wages and the increased minimum would not affect anyone and I am proud and happy that it is so. A 75-cent minimum will not mean that labor costs throughout the country will be the same as in California. We will still be a high-wage area and I hope we will always remain one. We pay good wages, maintain good industrial relations, and our businesses prosper. We seek no competitive advantage through equal labor costs. But by the same token we do not want our industries at a disadvantage because of competition based on the substandard wage rates paid by some business chiselers.

We are not afraid of honest competition based on managerial efficiency and technological advances. The purpose of the Fair Labor Standards Act is to prevent competition based on substandard wage rates. Compare our fish processing industry with the industry on the Gulf coast. Our firms operate under union agreements, pay high wages and time and one-half for overtime. The very lowest wages we pay in this industry are about twice what the average is on the Gulf coast—not the lowest on the Gulf coast but the average. And our plants pay time and one-half for overtime, in addition. Competition based on differences like that is unhealthy. And how about the workers concerned? I do not think any of my colleagues who speak of regional differences in the cost of living can prove it, or that even in their most sweeping claims they would argue that the cost of living is so much lower on the Gulf as to warrant such tremendous differences in wage rates. And the Lucas bill would not even offer the less than adequate protection of its 65-cent minimum to those workers. They are completely exempt from the minimum and overtime provisions.

We have a serious unemployment problem in my State at this time. This condition will not be improved if our decent employers have to meet the cutthroat competition of wage-chiseling employers. The answer to unemployment is not substandard wages but increased purchasing power. Put some money in the hands of the people who spend it and we will have more employment, more production and a better standard of living for all.

What does the Lucas bill do to the coverage of the act? At a time when we should be going forward the Lucas bill would cut down the present coverage of the act by a million employees who are engaged in activities necessary to production and in other activities, including many low-wage activities in greatest need of the act's protection. The Lucas bill would remove the protection of the act from these vast numbers of low-paid workers.

What is the use of raising the minimum wage for high-paid workers and throwing overboard these workers who are and have been for 10 years under the act? What reasonable or even plausible-sounding excuse is there for cutting out auxiliary workers, watchmen, guards, employees of business services and others like them? For a paltry 65-cent-an-hour minimum, tied to an index number designed to serve other purposes, and used here only in the hope that it will cut the minimum by going down? Why should the low-paid worker be completely frozen out of the gains of the whole country from technological progress, cut out either by outright exemption from the law or by this sagging floor under the niggardly wages provided in the Lucas bill? There are no valid answers to these questions.

The President has asked for the same thing as vital to our domestic economy. The Senate Labor Committee unanimously voted for 75 cents. How does the Lucas bill fit in with all this? It provides a lower minimum wage for fewer people. I ask the Members of this House to vote down the Lucas bill in its entirety.

Mr. PHILBIN. Mr. Chairman, my remarks regarding this measure will be as brief as possible since the bill has been fully and ably debated.

In view of the favorable vote on the 75-cent minimum-wage provision, it is clear that an overwhelming majority of the Members of the House recognize the need for satisfactory and generous standards applicable to industrial and business wages. This bill is of particular interest to my district and section of the country because for years past our industries and workers have been punished because of existing high labor and industrial standards.

The State of Massachusetts was among the first in the Union to enact workmen's compensation laws, minimum-wage laws, factory safety laws, limitation-of-hours laws, protection-of-women-and-children-in-industry laws, and other legislation beneficial to our workers and the health and welfare of our people. As a consequence and because other States were slow to follow our example, wide differentials were established and still exist between our wages, hours, and conditions-of-work standards and those obtaining in many other States.

By reason of these differentials there can be little question but that industrially Massachusetts has suffered severely. Many of our industries have moved to other States to secure the advantages of lower wages, longer hours, and less exacting conditions and standards. Existing industries, despite higher productivity of our well-paid, high-standard labor, have been hard put to compete with industries in other States which operate and produce under lower standards and lower unit production costs.

One of our most perplexing problems in Massachusetts is to try to offset these differentials which also exist in some other fields other than labor which I will not discuss here. To close the cost-of-production gap between our own and other industries throughout the Nation would be a most desirable accomplishment. This cannot be accomplished, however, by our State acting alone, or even by other States which have similar problems working in conjunction with us. This most essential aim must be achieved by the application of Nation-wide standards relating to the conditions of production and commerce, including wages, hours, and conditions of work.

The fair-labor-standards law enacted over 10 years ago and other Federal laws protective of our workers have been exceedingly helpful. The pending bill will, in my opinion, do much to bring about a better balance between Massachusetts industry and industries of other States with regard to production costs. However, it will not avail us much if we enact a measure containing a reasonable minimum wage and reasonable exemptions and then proceed to emasculate it by the injection of wholesale general exemptions. We understand, I think, the problems of other sections and have no desire to undermine their economic structure and stability. But we surely cannot be blamed for endeavoring to protect our own industrial structure and social standards to the best of our ability and I think this can be done in a very broad sense by moving in the direction of the purposes of this measure.

If we enact safeguards for industry and decent standards for our workers we should be careful not to place arbitrary power in the hands of Federal bureaucrats to interfere with activities of our people over and beyond the scope of reasonable and constitutional control of interstate commerce. Moreover, any rule-making powers, indeed any powers granted to Federal officials under this act, should be strictly limited and clearly defined to protect the rights of our businessmen and our workers against unwarranted intrusion by Federal bureaucracy.

We should likewise make every effort to protect our businessmen and industries against the possibility of wholesale claims arising out of future administrative rulings which could conceivably bring bankruptcy and ruin to many of our industries and thereby nullify all the favorable effects of this legislation.

Insofar as the present able and distinguished Secretary of Labor is concerned, I feel confident that fundamentally and basically he has the welfare of the country and State at heart. He not only knows the problems of our workers, but has a fine and sympathetic awareness of their needs and just deserts within the industrial and social organism. He understands the problems of New England, and he is patriotically concerned with reconciling these problems with the broader and larger requirements of the national interests which we all must seek these days if we are to maintain a stable economy and a wisely progressive Government. I am not one of those who believe that he would abuse any administrative powers vested in him under this or any other legislation.

I have confidence that he will administer this bill honestly, justly, soundly, efficiently, and wisely to further the cause of industrial stability, national prosperity, and the well-being of our faithful workers and businessmen. For that reason I do not share the apprehension of some Members who believe that by this law we are conferring too great a discretionary power in the Department of Labor.

The present bill could be supplemented and perfected in many ways, but we have the views of many groups to try to reconcile and, accordingly, in my judgment, we must permit the House to work its will in these matters and formulate the best possible measure which can be devised at this time by the House acting as a whole. I will, therefore, vote for this minimum-wage legislation in the hope and belief that it may well be a strong instrument for safeguarding the interests of the industries and workers of my own district and State and also promoting the national welfare by extending to our faithful workers in industry still another measure of social justice and economic opportunity which will enable them to enjoy higher standards and a more abundant way of life.

Mr. DAVENPORT. Mr. Chairman, I would like to address a question to the gentleman from Pennsylvania [Mr. KELLEY], a member of the committee. Having just received a communication from Controlled Circulation Newspapers of America, Inc., regarding community newspapers delivered by carrier boys and not having second class mailing privileges, I wish to ask this question: Does the term "newspapers" as used in section 13 (a) of the Lesinski bill mean all types of newspapers whether entitled to second-class mailing privileges or not?

Mr. KELLEY. Yes, I believe that to be the correct interpretation.

Mr. DAVENPORT. Now I would like to direct a question to the gentleman from Texas [Mr. LUCAS]: "Are carrier boys for shopping news and other free distribution newspapers exempt under the Lucas bill?"

Mr. LUCAS. That is correct.

Mr. DAVENPORT. Another question, Mr. LUCAS: "Are we to understand that the Lucas bill exempts retail-store employees, hotel and service business employees."

Mr. LUCAS. That is correct.

Mr. DAVENPORT. Does this exemption apply to chain stores and other large department stores having retail stores in cities in various States?

Mr. LUCAS. Yes, that is correct.

Mr. DAVENPORT. Thank you, I am glad to get these two points clarified because I know from experience that not exempting employees in the classifications of business I have just mentioned would create serious burdens on publishers of free distribution newspapers and shoppers and in the case of small retail stores would drive many out of business and set up almost unbearable handicaps for large and small department stores and hotels.

Mr. PATTERSON. Mr. Chairman, although the opportunity did not present itself for me to introduce my amendment to the so-called Lucas bill, in advocacy of a standard 75-cent minimum wage, without a sliding scale dependent upon the cost-of-living index, I am gratified that such an amendment was adopted by the Committee of the Whole House.

During this week, I have commented on the situation facing New England with respect to the loss of its industries to the Southern and Southwestern States. This comment was made in connection with another subject, but it applies equally well in this instance. I believe that a 75-cent minimum wage will grant to all workers in interstate commerce only a sufficient amount to make possible the minimum living standard. There should be no reluctance on the part of New England representatives in Congress in voting for this amount—as its adoption minimizes to some extent the threat of unfair competition by southern industries. We, in New England, who are accustomed to paying our skilled labor reasonably high wages, must always contend with the beckoning of those industries by southern States which point to their surplus labor pools and the availability of labor at lower wages than are currently paid in New England.

This economic threat will be reduced by the imposition of a standard 75-cent minimum, and it will, at the same time, aid the South economically by raising the living standards of workers in that area.

Although the amendment adopted was not offered by me, I feel that its inclusion in the Lucas bill is a forward step in our Nation's economy.

Mr. WHITE of California. Mr. Chairman, I move to strike out the last word. My name was on the list.

The CHAIRMAN. The gentleman from California is recognized for half a minute.

Mr. SHAFER. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. SHAFER. The gentleman from California gave his time to another Member. I object.

Mr. MARTIN of Massachusetts. Mr. Chairman, I make the point of order that all time on the amendment has expired.

The CHAIRMAN. The point of order is sustained. All time has expired. The Chair regrets that there is not time for the gentleman from California to be heard.

Mr. THORNBERRY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THORNBERRY: Page 30, line 16, insert at the beginning of said line before the word "or" the following: "Including the processing of cotton seed."

The CHAIRMAN. The question is on the amendment.

The amendment was rejected.

The CHAIRMAN. The question is on the Lucas amendment as amended.

Mr. COMBS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COMBS. If I understand the parliamentary situation now as we are prepared to vote on the Lucas amendment, it is this: That if the Lucas amendment is adopted, the Committee would rise and report it back to the House as the bill for passage or rejection in the House.

The CHAIRMAN. The gentleman from Texas is correct.

Mr. COMBS. On the other hand, if we now vote down the Lucas amendment, the Lesinski bill, H. R. 5856, which is the bill under consideration, will then be taken up for consideration in its several provisions; is that correct?

The CHAIRMAN. If the Lucas amendment is voted down, then we will

proceed to the consideration of the Lesinski bill.

Mr. COMBS. We then proceed to the consideration of the Lesinski bill.

The CHAIRMAN. The gentleman is correct.

Mr. LUCAS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LUCAS. When we do proceed with the consideration of the Lesinski bill we will then have an opportunity of reducing the 75-cent rate to 65; will we not?

The CHAIRMAN. The gentleman has not stated a parliamentary inquiry.

The question is on the Lucas amendment as amended.

Mr. McCORMACK. Mr. Chairman, we are going to have a teller vote anyway, so why not have it at the beginning? I ask for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. LUCAS and Mr. KELLEY.

The Committee divided; and the tellers reported that there were—ayes 211, noes 140.

So the amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. COOLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H. R. 5856) to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes, pursuant to House Resolution 183, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

Mr. MARCANTONIO. On that, Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

Mr. MARTIN of Massachusetts. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MARTIN of Massachusetts. Will the Chair kindly state what the vote is on?

The SPEAKER. The question is on the amendment adopted by the Committee of the Whole.

Mr. MARCANTONIO. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MARCANTONIO. That is the Lucas amendment, is it not?

The SPEAKER. It is the amendment adopted by the Committee of the Whole.

The question was taken; and there were—yeas 225, nays 181, answered "present" 1, not voting 25, as follows:

[Roll No. 172]

YEAS—225

Abbitt	Andresen, August H.	Battle
Abernethy	Arends	Beall
Allen, Calif.	Auchincloss	Bennett, Mich.
Allen, Ill.	Barden	Bentsen
Andersen, H. Carl	Barrett, Wyo.	Blackney
Anderson, Calif.	Bates, Mass.	Boggs, Del.
Bolton, Md.	Bonner	Boykin
Bramblett	Brehm	Brown, Ga.
Brown, Ohio	Bryson	Burton
Byrnes, Wis.	Camp	Carlyle
Case, N. J.	Case, S. Dak.	Chatham
Chiperfield	Church	Cole, Kans.
Cole, N. Y.	Colmer	Cooley
Cooper	Cotton	Coudert
Cox	Crawford	Cunningham
Curtis	Davis, Ga.	Davis, Tenn.
Davis, Wis.	DeGraffenried	D'Ewart
Dondero	Doughton	Durham
Ellsworth	Elston	Engel, Mich.
Engle, Calif.	Fallon	Fenton
Fernandez	Fisher	Ford
Fugate	Gamble	Gary
Gathings	Gavin	Gillette
Golden	Goodwin	Gossett
Graham	Grant	Gross
Gwinn	Hagen	Hale
Hall, Edwin Arthur	Hall, Leonard W.	Halleck
Hand	Harden	Hardy
Hare	Harris	Harrison
Harvey	Hays, Ark.	Hébert
Herlong	Herter	Heselton
Hill	Hobbs	Hoeven
Hoffman, Ill.	Hoffman, Mich.	Holmes
Hope	Horan	Jackson, Calif.
James	Jenison	Jenkins
Jennings	Jensen	Johnson
Jones, N. C.	Judd	Kean
Kearney	Kearns	Keating
Keefe	Kerr	Kilburn
Kilday	Kunkel	Larcade
Latham	LeCompte	LeFevre
Lemke	Lichtenwalter	Lodge
Lovre	Lucas	Lyle
McConnell	McCulloch	McDonough
McMillan, S. C.	McMillen, Ill.	Mack, Wash.
Macy	Mahon	Martin, Iowa
Martin, Mass.	Merrow	Meyer
Michener	Miles	Miller, Md.
Miller, Nebr.	Mills	Morton
Murray, Tenn.	Murray, Wis.	Nicholson
Nixon	Norblad	Norrell
O'Hara, Minn.	Pace	Patterson
Peterson	Pfeiffer, William L.	Phillips, Calif.
Phillips, Tenn.	Pickett	Poage
Potter	Preston	Rankin
Redden	Reed, Ill.	Reed, N. Y.
Rees	Regan	Rich
Richards	Riehlman	Rivers
Rogers, Fla.	Rogers, Mass.	Sadlak
Sanborn	Sasscer	Scott, Hardie
Scott, Hugh D., Jr.	Scrivner	Scudder
Shafer	Short	Sikes
Simpson, Ill.	Simpson, Pa.	Smathers
Smith, Kans.	Smith, Va.	Smith, Wis.
Stanley	Stefan	Stockman
Taber	Tackett	Talle
Taylor	Teague	Thompson
Thornberry	Towe	Underwood
Van Zandt	Velde	Vinson
Vorys	Vursell	Wadsworth
Weichel	Werdel	Wheeler
Whitten	Whittington	Wigglesworth
Williams	Wilson, Ind.	Wilson, Tex.
Winstead	Wolcott	Wolverton
Wood	Woodruff	Worley

NAYS—181

Addonizio	Chesney	Gorski, N. Y.
Albert	Christopher	Granahan
Allen, La.	Chudoff	Granger
Andrews	Clemente	Green
Angell	Combs	Hart
Aspinall	Corbett	Havenner
Bailey	Crook	Hays, Ohio
Barrett, Pa.	Crosser	Hedrick
Bates, Ky.	Davenport	Heffernan
Beckworth	Davies, N. Y.	Heller
Bennett, Fla.	Dawson	Holifield
Biemiller	Deane	Howell
Bishop	Delaney	Huber
Blatnik	Denton	Hull
Boggs, La.	Dingell	Irving
Bolling	Dollinger	Jackson, Wash.
Bosone	Donohue	Jacobs
Brooks	Douglas	Javits
Buchanan	Doyle	Jones, Ala.
Buckley, Ill.	Eberharter	Jones, Mo.
Buckley, N. Y.	Elliott	Karst
Burdick	Evins	Karsten
Burke	Feighan	Kee
Burnside	Flood	Kelley
Byrne, N. Y.	Fogarty	Keogh
Canfield	Forand	King
Cannon	Frazier	Kirwan
Carnahan	Fulton	Klein
Carroll	Furcolo	Kruse
Cavalcante	Garmatz	Lane
Celler	Gore	Lanham
Chelf	Gorski, Ill.	Lesinski
Lind	O'Brien, Mich.	Sheppard
Linehan	O'Hara, Ill.	Sims
Lynch	O'Konski	Spence
McCarthy	O'Neill	Staggers
McCormack	O'Sullivan	Steed
McGrath	O'Toole	Stigler
McGuire	Passman	Sullivan
McKinnon	Patman	Sutton
McSweeney	Patten	Tauriello
Mack, Ill.	Perkins	Thomas, Tex.
Madden	Pfeifer, Joseph L.	Tollefson
Magee	Philbin	Trimble
Mansfield	Polk	Wagner
Marcantonio	Powell	Walsh
Marsalis	Price	Walter
Marshall	Priest	Welch, Mo.
Miller, Calif.	Quinn	Whitaker
Mitchell	Rabaut	White, Calif.
Monroney	Rains	White, Idaho
Morgan	Ramsay	Wickersham
Morris	Rhodes	Wier
Morrison	Ribicoff	Willis
Moulder	Rodino	Wilson, Okla.
Multer	Rooney	Withrow
Murdock	Roosevelt	Woodhouse
Murphy	Sabath	Yates
Nelson	Sadowski	Young
Noland	Secrest	Zablocki
O'Brien, Ill.		

ANSWERED "PRESENT"—1

Poulson

NOT VOTING—25

Baring	Eaton	Mason
Bland	Fellows	Norton
Bolton, Ohio	Gilmer	Plumley
Breen	Gordon	St. George
Bulwinkle	Gregory	Smith, Ohio
Burleson	Hinshaw	Thomas, N. J.
Clevenger	Jonas	Welch, Calif.
Dague	Kennedy	
Dolliver	McGregor	

So the amendment was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Mason for, with Mr. Welch of California against.

Mr. Dolliver for, with Mr. Smith of Ohio against.

Mr. Hinshaw for, with Mr. Gordon against.

Mr. Eaton for, with Mrs. Norton against.

Mr. Plumley for, with Mr. Gilmer against.

Mr. Poulson for, with Mr. Baring against.

Mr. Burleson for, with Mr. Breen against.

Mr. Dague for, with Mr. Kennedy against.

Until further notice:

Mr. Gregory with Mr. McGregor.

Mr. Bland with Mrs. St. George.

Mr. Bulwinkle with Mr. Fellows.

Mr. SASSCER changed his vote from "nay" to "yea."

Mr. ANGELL changed his vote from "yea" to "nay."

Mr. POULSON. Mr. Speaker, I have a live pair with the gentleman from Nevada, Mr. BARING. If he were present he would have voted "nay." I withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time.

Mr. MARCANTONIO. Mr. Speaker, I demand the reading of the engrossed copy of the bill.

The SPEAKER. Further proceedings on the bill H. R. 5856 will be delayed until the engrossed copy of the bill is available.

ESTABLISHING REARING PONDS AND A FISH HATCHERY AT MILLEN, GA.

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 2740) to

establish rearing ponds and a fish hatchery at or near Millen, Ga., with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert "That the Secretary of the Interior is hereby authorized to establish and construct rearing ponds and a fish hatchery at suitable locations at or near Millen, Ga., and in the upper peninsula of Michigan, at a cost of not to exceed $250,000 and $325,000, respectively; to rehabilitate and expand at a cost of not to exceed $70,000 to rearing ponds and facilities at the Cape Vincent, N. Y., fish cultural station, and to purchase lands adjoining such station in connection with the rehabilitation and expansion of such facilities; and to rehabilitate, repair, and place in efficient operating condition the rearing ponds and fish cultural facilities at Leadville, Colo., at a cost of not to exceed $90,000.

"SEC. 2. The Secretary of the Interior is hereby authorized to undertake, through the Fish and Wildlife Service, a comprehensive and continuing study of the shad of the Atlantic Coast for the purpose of recommending to the Atlantic Coast States, through the Atlantic States Marine Fisheries Commission, measures to be taken to arrest decline, increase the abundance, and promote the wisest utilization of such shad resources at a cost of not to exceed $75,000 per annum for a 6-year period. For the purposes of this section, any agency of the United States, or any corporation wholly owned by the United States, is authorized to transfer, without exchange of funds, any boats or equipment excess to its needs required by the Fish and Wildlife Service for the studies authorized herein.

"SEC. 3. That the joint resolution of August 8, 1946 (60 Stat. 930), be amended to read as follows:

" 'That the Director of the Fish and Wildlife Service of the Department of the Interior is hereby authorized and directed to prosecute investigations of the abundance and distribution of sea lampreys and their effects on fishes, experiments to develop control measures, and a vigorous program for the elimination and eradication of sea lamprey populations of the Great Lakes; to survey the Great Lakes area to determine what localities would be most suitable for the establishment of additional fish hatcheries and rearing ponds if, and when, it becomes desirable for the Federal Government to operate such additional fish hatcheries and rearing ponds in the Great Lakes area; and is authorized and directed to report to the Congress not later than December 31, 1950, the results of such survey and to make recommendations with respect thereto. The cost of the investigations and studies authorized in this section shall not exceed $359,000 for the first year and the sum of $216,000 per annum thereafter.

" 'In carrying out the foregoing purposes and objectives the Director of the Fish and Wildlife Service is authorized to cooperate with the official conservation agencies of the States bordering on the Great Lakes, with the commercial fishing industry, and with other governmental or private agencies, organizations, or individuals having jurisdiction over or an interest in the fisheries of the Great Lakes.'

"SEC. 4. There is authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the purposes and objectives of this act."

Amend the title so as to read: "An act to authorize the establishment of fish hatcheries in the States of Georgia and Michigan; to authorize the rehabilitation and expansion of rearing ponds and fish cultural facilities in the States of New York and Colorado; to authorize the Secretary of the Interior to undertake a continuing study of shad of the Atlantic coast; and to amend the Act of August 8, 1946, relating to investigation and eradication of predatory sea lampreys of the Great Lakes, and for other purposes."

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. THOMPSON]?

Mr. RICH. Mr. Speaker, reserving the right to object, I claim that the House is in no frame of mind to pass legislation. I see that this is going to cost at least a half a million dollars and we ought to know what is going on. Therefore, Mr. Speaker, I object.

PROCEEDINGS ON H. R. 5856, AMENDING THE FAIR LABOR STANDARDS ACT

The SPEAKER. The Chair will state, for the information of the House, that the reading of the engrossed copy of the bill (H. R. 5856) to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes, and the passage of the bill will be the first order of business tomorrow.

PROGRAM FOR TOMORROW

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McCORMACK. Mr. Speaker, I might say, so that the Members might be advised, that in addition to the roll call completing consideration of the bill now pending before the House, Reorganization Plan No. 2 will come up on tomorrow also.

I make this announcement so that the Members may govern themselves accordingly.

NIAGARA FALLS BRIDGE COMMISSION

Mr. KEE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table House Joint Resolution 208, to amend the joint resolution creating the Niagara Falls Bridge Commission, approved June 16, 1938, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment, as follows:

Page 2, line 6, strike out "near" and insert "north of."

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, will the gentleman explain this matter?

Mr. KEE. Mr. Speaker, this is a resolution authorizing the Niagara Falls Bridge Commission to construct and maintain the bridge across Niagara Falls.

Mr. MARTIN of Massachusetts. As I understand it, this resolution continues existing authority granted in a prior resolution?

Mr. KEE. That is correct.

Mr. MARTIN of Massachusetts. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia [Mr. KEE]?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mr. COLE of New York asked and was given permission to extend his remarks in the RECORD.

Mr. VURSELL asked and was given permission to extend his remarks in the RECORD.

Mr. HORAN asked and was given permission to extend his remarks in the RECORD and include a speech.

Mr. SHORT asked and was given permission to revise and extend the remarks he made in Committee of the Whole and include a telegram.

Mr. STEFAN asked and was given permission to extend his remarks in the RECORD.

Mr. O'SULLIVAN asked and was given permission to extend his remarks in the RECORD and include two articles.

Mr. FALLON asked and was given permission to extend his remarks in the RECORD and include an editorial from the New York Times.

Mr. KLEIN asked and was given permission to extend his remarks in the RECORD in three instances and include extraneous matter.

Mr. FERNANDEZ asked and was given permission to extend his remarks in the RECORD and include a letter from John Collier.

Mr. McSWEENEY asked and was given permission to extend his remarks in the RECORD and include a statement of his activities during this session of Congress.

Mr. COUDERT (at the request of Mr. KILBURN) was given permission to extend his remarks in the RECORD and include an article.

Mr. WITHROW asked and was given permission to extend his remarks in the RECORD and include a petition.

INTERPARLIAMENTARY UNION

Mr. COOLEY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COOLEY. Mr. Speaker, Vice President BARKLEY has requested me to announce to the House that tomorrow morning at 10 o'clock the American group of the Interparliamentary Union will have a formal meeting in the Senate Chamber.

EXTENSION OF REMARKS

Mr. DAVIS of Tennessee. Mr. Speaker, heretofore I asked and obtained unanimous consent to extend my remarks in the RECORD and include a speech. The Public Printer now informs me that it runs a half page over the limit allowed under the rules and the cost will be $200. Notwithstanding the additional cost, I ask unanimous consent that the extension be made.

The SPEAKER. Notwithstanding, and without objection, the extension may be made.

There was no objection.

The SPEAKER. Under previous order of the House, the gentleman from Mississippi [Mr. WILLIAMS] is recognized for 20 minutes.

SEGREGATION IN DISTRICT SWIMMING POOLS

Mr. WILLIAMS. Mr. Speaker, many crimes are committed in the name of "civil rights." The latest, and perhaps the most publicized of these crimes is the one committed by the Secretary of the Interior in closing the swimming pools of the District of Columbia. Secretary Krug, through his continued stubborn and arbitrary action is denying to the children of the District the use of recreation facilities bought for them by public funds—and, until June 29, operated and maintained for their use.

Mr. Krug has taken what is apparently an unyielding position in refusing to allow these facilities to reopen on a segregated basis, despite the fact that his recent experiences proved beyond any possible doubt that they could not be operated otherwise.

He steadfastly refuses to transfer the operation of these facilities to the District Recreation Board because they—in their wisdom—regard a continued segregation policy as necessary in order to preserve peaceful relations between the races in the District. Needless to say, the position of the Board is taken as a result of their experience over the years in dealing directly with this problem in the District of Columbia itself.

On the other hand, Secretary Krug has arbitrarily issued orders which he knew would cause trouble and violence between the races; and now, with the blood of race riots at Anacostia still dripping from his fingers, he stubbornly refuses to yield his position. The result, of course, is that the children of the District—both white and colored—are being denied the use of their swimming pools, and racial tension continues to mount in intensity.

The Secretary knows that—sooner or later—whether he likes it or not—he must admit that his action was ill-advised—and, to say the least—untimely.

The Secretary cannot even plead ignorance, nor can he contend that the results brought about by his order could not have been reasonably anticipated. He had but to look to similar occurrences in St. Louis and Youngstown, Ohio, several days previous to know that such an order would bring bloodshed and race riots. He had ample reason to anticipate that in a city where 35 to 37 percent of its citizens are colored, that a hundred-year custom could not be reversed overnight.

Secretary Krug is either a wild and impractical dreamer, or he is a politician seeking the endorsement of selfish-interest groups. I prefer to think that his action was political, as I do not believe a man of his background could be so naive as to expect the impossible to be brought about.

No matter how well intended his action might have been, the fact remains that its result was disastrous. The thing to be lamented, however, is not his original attempt to do the impossible, but his obstinacy in refusing to admit his very obvious error.

Now, he has recruited the services of one Dr. Joseph Lohman, professor of sociology at a midwestern university, to assist him in forcing his will on the people of the District of Columbia. It may be recalled that Dr. Lohman was the author of a publication entitled "Segregation in Washington," published in 1948, which was nothing more nor less than an attempt to smear the decent and thinking citizens, both white and Negro, of the District of Columbia. It was so full of misrepresentation of fact, deliberate lies, and Red propaganda that it was revised many times before publication—even after the completion of its text.

This unholy and misguided publication, purportedly written at a cost of $75,000, vehemently denounced the District Recreation Board—yet not one of its alleged investigating committees or members ever contacted the Board for information, opinions, or reasons for their actions. Their smearing of the Board was deliberate and purposely misleading.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. I yield.

Mr. RANKIN. This Dr. Lohman is a member of a racial minority, and I think you will find that the record of the Committee on Un-American Activities will show that he has been affiliated with Communist Front organizations.

Mr. WILLIAMS. I thank the gentleman; I did not have that information.

At a reported cost of $50 a day and expenses, with the taxpayer footing the bills, Secretary Krug has called in Dr. Lohman to enforce his predetermined ideas in the city of Washington.

The first reports of Dr. Lohman's visit indicated that he was coming for the purpose of helping to work out the swimming pool segregation problem. Now, though, it appears—from this morning's stories in the newspapers—that he is coming for the purpose of consulting with police on the matter of handling race riots and racial disturbances. Could it be that Secretary Krug is anticipating further race riots in Washington? Could it be that he is willing to allow race riots to continue rather than yield his ground on his antisegregation order in the face of obvious facts, and allow the pools to be reopened on a sane, sensible, and segregated basis?

Does he think $50 a day of the people's money paid to a left wing social reformer from Chicago will change human nature? Why, then, does he continue to be adamant in regard to these pools, when their reopening could be effected so easily and peaceably?

Mr. HOFFMAN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. I yield.

Mr. HOFFMAN of Michigan. Did the gentleman read in last night's press and I think also in this morning's press that Dr. Lohman is down here holding classes instructing the Washington police, a fine group of law enforcement officers, on how to perform their duty?

Mr. WILLIAMS. That is what I had understood from the reports I had read.

Mr. HOFFMAN of Michigan. A trouble-maker trying to show these trouble-shooters just what they ought to do.

Mr. WILLIAMS. That is right, and he is here at a cost of $50 a day and expenses.

Mr. DAVIS of Georgia. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. I yield.

Mr. DAVIS of Georgia. I believe that the newspaper stories reported that this man who is here from Chicago is down here now to give instructions to the police as to what to do in the case of race riots and what to do in the case of trouble between the races. Is that correct?

Mr. WILLIAMS. That is my understanding; yes.

Mr. DAVIS of Georgia. Does the gentleman understand from that, then, that they are proceeding on a course which they themselves calculate is going to bring on race riots, and trouble, and tension between the races?

Mr. WILLIAMS. That was the point I was trying to make a minute ago. I think that the Secretary is expecting a race riot as a result of his action in doing away with segregation at the swimming pools.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. I yield.

Mr. RANKIN. Chicago is a good place to get information on race riots. In the race riot in Chicago right after the First World War they killed 2,200 Negroes.

Mr. WILLIAMS. I think it is admitted that they have a monopoly on race riots north of the Mason and Dixon's line.

It is remarkable to note the attendance figures at these pools both prior to and after the Secretary began his meddling.

At Anacostia, from the period of June 4 to June 26, immediately preceding Krug's action 44,669 people were in attendance to use the pool's facilities. This is an average attendance during that period of more than 1,507 a day. On June 29—only 3 days later, the day on which the pool was closed, the attendance at the pool was 41.

At McKinley, from June 4 to June 30, the attendance was 18,836, or an average daily attendance of 697. During the month of July, when it was operated on a nonsegregated basis—actually converted into a Negro pool—the attendance was 6,017, or an average of only 194 per day. It might be added that the month of July was the hottest month in the history of the District.

Why, then, the small attendance? Secretary Krug knows the answer to that one. He knows that he is costing the people of the District thousands of dollars in fees by refusing to allow the reopening of these pools.

Does he think he is helping the Negroes when he is discriminating against all by closing the pools and allowing neither white nor Negro to use them?

Does he think that Washington Negroes appreciate having their welfare being made a political football? Can he

reconcile his present position in the face of its obvious results of only a month ago? Or is he man enough to admit the folly of his ways, and allow the people of the District to restore peaceful relations?

Mr. ABERNETHY. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. The test of a man's sincerity is practicing what he preaches. Now, will the gentleman tell us whether or not the Secretary and his family are patronizing the nonsegregated pools?

Mr. WILLIAMS. I have not been down there since this order was put into effect.

Mr. ABERNETHY. I doubt that the Secretary has.

Mr. WILLIAMS. I do not patronize swimming pools under such conditions.

Mr. DAVIS of Georgia. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Georgia.

Mr. DAVIS of Georgia. The gentleman referred a few moments ago to a report that was issued by this Dr. Lohman regarding the racial situation in Washington. Was that a report issued by him individually or by some commission and if so does the gentleman have any information as to who the members of the commission were and whether or not they are residents of the city of Washington?

Mr. WILLIAMS. It is my understanding, and I had a list of them before me a couple of days ago, that this report was written by a committee set up by God knows who that designated itself as the Committee on Segregation in the Nation's Capital. In looking over the list of the members of that committee, which included some 75 or 100, I found only about 5 or 6 listed as residents of the District of Columbia and of those 5 or 6 I was able to find at least 3 that I knew to be Negroes. In other words, the committee was stacked against segregation.

Mr. DAVIS of Georgia. May I ask the gentleman if he knows whether or not that is the same committee which issued a report upon the racial situation in the city of Washington in the year 1947? I have a letter which was written to me by Mrs. Harvey W. Wiley, who is chairman of the Department of Legislation of the District of Columbia Federation of Women's Clubs regarding that report.

Mr. WILLIAMS. May I say before the gentleman goes further, I think that his letter has reference to the President's Committee on Civil Rights rather than this one.

Mr. DAVIS of Georgia. At any rate they issued a report on the situation. It seems there has been more than one committee concerning itself about this matter. In the analysis of that report which she sent to me she said:

> It is also a significant fact that not a single member of the committee resides in the District of Columbia; consequently not one could have had first-hand knowledge of conditions here.

She also states in conclusion:

> The entire report so far as the District of Columbia is concerned is replete from beginning to end with gross exaggerations, carefully worded misstatements, half-truths, and vicious untruths that, in my opinion, were intentionally made.

Mr. WILLIAMS. I think that anyone living in Washington for as long as a year or 2 years knows that the conditions as reported in those reports are not true, and that those reports are intended to misguide and mislead the American people.

Mr. HOFFMAN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Michigan.

Mr. HOFFMAN of Michigan. If we have a home-rule bill here, would that then permit the people of the District to handle their own problems of segregation, or would that still be up to Mr. Krug?

Mr. WILLIAMS. Not the home-rule bill under consideration, no; I do not think it would.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Mississippi.

Mr. RANKIN. This report of this fellow Lohman was calculated to stir up trouble between the white people and the Negroes in the District of Columbia and he, being a member of another minority race, did not seem to care how much trouble he stirred up.

Mr. WILLIAMS. Well, the gentleman has been a member of the Committee on Un-American Activities for a good many years up to and until this year, and I would like to ask him this question: Are not those the same tactics adopted by the Communists in attempting to create chaos and confusion in the United States? Do they not use the Negro as a tool with which to work?

Mr. RANKIN. Absolutely.

Mr. WILLIAMS. Is the Secretary willing to let the people of the District handle their own social affairs, or has he set himself up as a social messiah, self annointed for the purpose of inflicting upon them his own selfish political will?

Mr. SMITH of Virginia. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Virginia.

Mr. SMITH of Virginia. There is one thing about the report I saw in the newspaper that I hope the gentleman can enlighten us on. It said that this Dr. Lohman was an expert on racial relations. I was wondering what qualified a man to be an expert on racial relations and from what school he graduated. Maybe the gentleman could advise us and maybe some of the rest could be educated on this subject.

Mr. WILLIAMS. I would like to answer that question, but I cannot find out a thing about him.

Mr. HOFFMAN of Michigan. I think I can answer the question. In this particular case the only qualification is the desire to interefere in somebody else's business and make trouble.

Mr. RANKIN. I think it meant that he was an expert on stirring up trouble between other races.

Mr. WILLIAMS. I agree with the gentleman.

The SPEAKER pro tempore. The time of the gentleman from Mississippi has expired.

SPECIAL ORDER GRANTED

Mr. HOFFMAN of Michigan. Mr. Speaker, I ask unanimous consent that on tomorrow and on the following day, at the conclusion of the legislative business of the day and following any special orders heretofore entered, I may be permitted to address the House for 10 minutes, and I further ask unanimous consent that today, following any special orders heretofore entered, I may be permitted to address the House for 3 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

EXTENSION OF REMARKS

Mr. PHILBIN asked and was given permission to extend his remarks in the RECORD and include an editorial.

The SPEAKER pro tempore. Under previous order of the House, the gentleman from New Hampshire [Mr. COTTON] is recognized for 10 minutes.

EDWARD A. MACDOWELL

Mr. COTTON. Mr. Speaker, Mrs. Edward A. MacDowell has received an eloquent tribute in the form of an article in the "Atlantic" for July by Rollo Walter Brown. Because of its length, I do not ask leave to insert it in the RECORD, but I hope that it will come to the attention of many Members. It is an impressive story of one of America's most remarkable women and it breathes something of the quiet beauty of that mountain land in New Hampshire which I am proud to represent.

Mrs. MacDowell met and married her brilliant husband some 70 years ago when he was a teacher of music and she a student. In the years that followed she effaced herself to encourage his creative talent and to protect him from the jarring vexations of life, and contributed much to his success as one of America's great composers. When Edward MacDowell and his wife found that his work as professor of music at Columbia University was using up his creative energies in teaching, they tried to make up for it in the long summers on their farm in Peterborough, N. H. There Mrs. MacDowell presented him with a log cabin "deep in the woodland where there was a view of Mount Monadnock through the trees"—in his own words—

> A house of dreams untold—
> It looks out over the whispering treetops
> And faces the setting sun.

Edward MacDowell "had a vast dream for music and the other arts at Columbia" but the President and trustees rejected it contemptuously and in the controversy that followed addressed a resolution of condemnation to MacDowell which left him broken in spirit and in health.

This incident impressed on the minds of both husband and wife the necessity for a sanctuary where true artists could be free to create, and so they resolved to expand "their New Hampshire homestead for all these others who needed freedom

and the enriching solitude that he had found in the hills."

Thus the famous Edward MacDowell colony was founded at Peterborough 40 years ago when Mrs. MacDowell was 50 years of age. After Mr. MacDowell's death, she continued to develop the colony. She resumed her music and until she was well into her eighties, she traveled throughout the Nation playing her husband's compositions to provide money for the project. No one can estimate the value of the MacDowell Colony to American music, literature, painting, and sculpture. The names of those who have found their first opportunity for creative work in this beautiful spot in New Hampshire are famous and their number is legion.

Mrs. MacDowell is now 91 years of age. She has nurtured and supported the colony through all these years in memory of her husband, its founder. The people of Peterborough revere his memory and they love her. Every soul in the community and in the surrounding countryside wants to do something to honor him and to please her—and they want to do it while she still lives.

A Federal flood-control dam is now nearing completion in that town. It is not a great project, compared with the mighty dams of the West and the South. It merely checks and controls a little mountain stream and stands as a guardian to preserve the safety and beauty of the countryside and the valleys below. However, it belongs to the people there. It was built for them by their Government. With absolute unanimity they wish it named, the Edward MacDowell Dam.

They have asked their Senators and Representatives to secure the permission of their Government to do that. We consulted the Army engineers and were refused on the ground that it was known in all the plans and the records as the West Peterborough Dam and to give it another name would cause inconvenience and confusion. The people of Peterborough at their annual town meeting voted unanimously to ask their Representatives to obtain action by Congress on this matter. Pursuant to their desire and that vote, I introduced a bill naming the dam the Edward MacDowell Dam. This bill was referred to the Committee on Public Works.

I cannot obtain a hearing on this measure. The chairman of that committee refuses to permit me even to appear before a subcommittee. He insists that if such a bill were considered, other bills would follow and we would be beset with requests for the naming of Federal projects. The chairman also uses the same words that I heard from the Army engineers, that it would be inconvenient and confuse the records.

I have great respect for the distinguished chairman of the Committee on Public Works and I recognize the reasons for his position. I call attention, however, to the fact that this bill does not change a name that has been used for a long period of time, but merely gives a name to a project which is still in the process of construction.

It is interesting that by a strange coincidence we are once more facing the same attitude that Edward MacDowell found in the trustees of Columbia University—the minds of the business administrator and the engineer closed to the artist. Are the Army engineers and what they represent to be forever the autocrats of America? Is there no such thing as sentiment? And will Congress continue to turn a deaf ear to the wishes of the people of even a small community who desire to do honor to a wonderful woman while she still lives to appreciate it, and to the memory of one of the world's great artists?

If this cannot be accomplished any other way, I intend to offer it in the form of an amendment to the river and harbor bill when that reaches the House, but I am hoping that the chairman of the Committee on Public Works will reconsider his decision and grant me a hearing.

Mr. CANFIELD. Mr. Speaker, will the gentleman yield?

Mr. COTTON. I yield to the gentleman from New Jersey.

Mr. CANFIELD. I think there is real human interest in the gentleman's bill, and I hope that very soon the committee will give him a friendly and sympathetic hearing.

Mr. COTTON. I thank the gentleman.

Mr. PHILBIN. Mr. Speaker, will the gentleman yield?

Mr. COTTON. I yield to the gentleman from Massachusetts.

Mr. PHILBIN. May I join the gentleman from New Jersey in commending the gentleman on his very fine discussion of this matter. I assure him that there will be many other Members of the House who will join him in trying to obtain favorable action on this very highly meritorious legislation to honor the name of one of America's greatest composers.

Mr. COTTON. I thank the gentleman. I recognize that the gentleman comes from a neighboring district across the line in Massachusetts and is familiar with the MacDowell colony.

THE WILLIAM P. CONNERY, JR., MEMORIAL VETERANS HOSPITAL AT WEST ROXBURY, MASS.

Mr. LANE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LANE. Mr. Speaker, like the gentleman from New Hampshire, I, too, have a matter that I am interested in and in some respects it is similar to the very meritorious bill that he has introduced and on which he seeks action during this session of the Congress.

I know the House will be interested, Mr. Speaker, to know that on yesterday the other body passed a bill, S. 1387, to provide for the designation of a United States Veterans' Administration hospital to be constructed at West Haven, Conn., as the John D. Magrath Memorial Veterans Hospital. As I say, that bill was passed by the other body. I know each and every Member of the House will agree that it, too, is good legislation because of the fact that a new hospital is to be constructed at West Haven to be named after this young hero, a private, first class, who not only made the supreme sacrifice, but also rendered service beyond the call of duty. I am interested primarily, however, in my bill, which is H. R. 472, which seeks to name the Veterans' Administration facility at West Roxbury, Mass., as the William P. Connery, Jr., Memorial Veterans Hospital. I know it has been the practice of the Veterans' Administration to name its hospitals after the locality in which the hospital is located.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts has expired.

Mr. CANFIELD. Mr. Speaker, I ask unanimous consent that the gentleman may proceed for an additional minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. LANE. Mr. Speaker, I thank the gentleman from New Jersey for his thoughtfulness.

As I say, Mr. Speaker, I know it has been the practice of the Veterans' Administration to name its hospitals after the locality in which those hospitals are located, and not for individuals. However, the Veterans' Administration has no objection, if the Congress so desires and sees fit, to the naming of these hospitals after persons. William P. Connery, Jr., was a man who was well known to many of the Members of the Congress. He served overseas during the First World War. He was in combat areas for a long period of time. When he returned from overseas service he ran for Congress from the district which I now have the honor to represent. He was a Member of this body for a number of years and during his service here in the House of Representatives, he was not only the chairman of the House Committee on Labor, but was a very active member in behalf of those veterans of the First World War.

Mr. Speaker, this has been brought to the attention of the committee. I am aware that during this hectic session the committee has had very, very important matters before them. Their time has been limited. I realize they have been unable to reach this matter for consideration and discussion. But, due to the fact now, Mr. Speaker, that there is a precedent and that the other body has passed this bill naming the hospital in West Haven, Conn., after this young war hero of the Second World War, I now simply ask that the Committee on Veterans' Affairs, as soon as possible, consider my bill because, after all, it is a bill to name this hospital in West Roxbury after a former Member of the House who rendered valuable service to his constituents as well as to the country at large. His death was hastened, as a result of overwork in his capacity as Representative from the Seventh Congressional District.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts has again expired.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mrs. ROGERS of Massachusetts (at the request of Mr. MARTIN of Massachusetts), for indefinite period, on account of death in the family.

To Mr. LIND, for August 11 and 12, on account of official business.

To Mr. BLAND (at the request of Mr. SMITH of Virginia), for an indefinite period, on account of illness.

To Mr. TOLLEFSON, for an indefinite period, on account of official business.

To Mr. BARING, for an indefinite period, on account of official business.

To Mrs. ST. GEORGE (at the request of Mr. SADLAK), for balance of this week, on account of illness in her family.

EXTENSION OF REMARKS

Mr. DONOHUE asked and was given permission to extend his remarks in the RECORD and include an editorial.

SENATE BILLS, JOINT RESOLUTION, AND CONCURRENT RESOLUTIONS REFERRED

Bills, a joint resolution, and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 4. An act authorizing the advanced training in aeronautics of technical personnel of the Civil Aeronautics Administration; to the Committee on Interstate and Foreign Commerce.

S. 51. An act to amend title 28, United States Code, section 962, so as to authorize reimbursement for official travel by privately owned automobiles by officers and employees of the courts of the United States and of the administrative office of the United States courts at a rate not exceeding 7 cents per mile; to the Committee on the Judiciary.

S. 212. An act for the relief of John Joseph McKay; to the Committee on the Judiciary.

S. 229. An act for the relief of E. W. Eaton Coal Co.; to the Committee on the Judiciary.

S. 296. An act for the relief of Daniel George Fischer and Ladislas (Vasile) Taub; to the Committee on the Judiciary.

S. 309. An act for the relief of Gabe Budwee; to the Committee on the Judiciary.

S. 442. An act to amend the Air Commerce Act of 1926 (44 Stat. 568), as amended, to provide for the application to civil air navigation of laws and regulations related to animal and plant quarantine, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 443. An act to authorize the construction and equipment of a radio laboratory building for the National Bureau of Standards, Department of Commerce; to the Committee on Interstate and Foreign Commerce.

S. 450. An act to amend the Civil Aeronautics Act of 1938, as amended, by providing for the delegation of certain authority of the Administrator, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 472. An act for the relief of Osmore H. Morgan; to the Committee on the Judiciary.

S. 557. An act for the relief of the McCormick Engineering Co. and John E. Price, an individual doing business as the Okeechobee Construction Co.; to the Committee on the Judiciary.

S. 603. An act to amend the Trading With the Enemy Act; to the Committee on Interstate and Foreign Commerce.

S. 609. An act for the relief of Mrs. Bertie Grace Chan Leong; to the Committee on the Judiciary.

S. 614. An act to amend the Hospital Survey and Construction Act (title VI of the Public Health Service Act), to extend its duration and provide greater financial assistance in the construction of hospitals, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 627. An act for the relief of Leon Moore; to the Committee on the Judiciary.

S. 672. An act to amend part VIII of Veterans Regulation No. 1 (a) so as to provide entitlement to educational benefits for those individuals who enlisted or reenlisted prior to October 6, 1945, on a same basis as for those individuals who enlisted or reenlisted within 1 year after October 6, 1945; to the Committee on Veterans' Affairs.

S. 777. An act for the relief of Calvin D. Lynch & Son; W. Thomas Lockerman; Sudlersville Supply Co.; George C. Moore and H. A. Moore; J. McKenny Willis & Son, Inc.; Hobbs & Jarman; C. S. Thomas; and Royse R. Spring, to the Committee on the Judiciary.

S. 794. An act for the relief of certain contractors employed in connection with the construction of the United States Appraisers Building, San Francisco, Calif.; to the Committee on the Judiciary.

S. 855. An act to authorize a program of useful public works for the development of the Territory of Alaska; to the Committee on Public Lands.

S. 868. An act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 874. An act for the relief of Elza Friedrych; to the Committee on the Judiciary.

S. 916. An act for the relief of Ascanio Collodel; to the Committee on the Judiciary.

S. 938. An act to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto; to the Committee on the Judiciary.

S. 973. An act to exempt from taxation certain property of the National Society of the Colonial Dames of America in the District of Columbia; to the Committee on the District of Columbia.

S. 986. An act for the relief of Carlos Riggenbach; to the Committee on the Judiciary.

S. 1033. An act to further amend the Philippine Rehabilitation Act of 1946; to the Committee on Foreign Affairs.

S. 1054. An act for the relief of Northwest Missouri Fair Association, of Bethany, Harrison County, Mo.; to the Committee on the Judiciary.

S. 1096. An act for the relief of Abe Lincoln and Elena B. Lincoln; to the Committee on the Judiciary.

S. 1115. An act authorizing appropriations for the construction, operation, and maintenance of the western land boundary fence project, and for other purposes; to the Committee on Foreign Affairs.

S. 1126. An act to amend the Boiler Inspection Act of the District of Columbia; to the Committee on the District of Columbia.

S. 1145. An act for the relief of Persephone Poulios; to the Committee on the Judiciary.

S. 1231. An act to repeal the limitation upon the total annual compensation of certain rural carriers serving heavily patronized routes; to the Committee on Post Office and Civil Service.

S. 290. An act to establish and effectuate a policy with respect to the creation or chartering of certain corporations by act of Congress, and for other purposes; to the Committee on the Judiciary.

S. 1387. An act to provide for designation of the United States Veterans' Administration hospital to be constructed at West Haven, Conn., as the John D. Magrath Memorial Hospital; to the Committee on Veterans' Affairs.

S. 1446. An act for the relief of James Hung Loo; to the Committee on the Judiciary.

S. 1479. An act to discontinue the operation of village delivery service in second-class post offices, to transfer village carriers in such offices to the city delivery service, and for other purposes; to the Committee on Post Office and Civil Service.

S. 1565. An act for the relief of Dr. Ludovit Ruhmann; to the Committee on the Judiciary.

S. 1604. An act conferring jurisdiction upon the United States District Court for the District of New Mexico to hear, determine, and render judgment upon the claim of F. DuWayne Blankley; to the Committee on the Judiciary.

S. 1825. An act to amend the Postal Pay Act of 1945, approved July 6, 1945, so as to provide promotions for temporary employees of the mail equipment shops; to the Committee on Post Office and Civil Service.

S. 1937. An act to provide greater retention preference for severely disabled war veterans in reductions in force; to the Committee on Post Office and Civil Service.

S. 1973. An act to further amend the Communications Act of 1934; to the Committee on Interstate and Foreign Commerce.

S. 2028. An act to permit the Board of Education of the District of Columbia to participate in the foreign teacher exchange program in cooperation with the United States Office of Education; to the Committee on the District of Columbia.

S. 2031. An act for the relief of the Willow River Power Co.; to the Committee on the Judiciary.

S. 2046. An act to provide authority for certain functions and activities of the National Bureau of Standards, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 2080. An act to authorize the regulation of whaling and to give effect to the International Convention for the Regulation of Whaling signed at Washington under date of December 2, 1946, by the United States of America and certain other governments, and for other purposes; to the Committee on Foreign Affairs.

S. 2085. An act to amend the Employment Act of 1946 with respect to the Joint Committee on the Economic Report; to the Committee on Expenditures in the Executive Departments.

S. 2125. An act conferring jurisdiction upon the United States District Court for the District of Oregon to hear, determine, and render judgment upon the claims of J. N. Jones and others; to the Committee on the Judiciary.

S. 2146. An act to provide certain additional rehabilitation assistance for certain seriously disabled veterans in order to remove an existing inequality; to the Committee on Veterans' Affairs.

S. 2160. An act to amend the Public Health Service Act to authorize annual and sick leave with pay for commissioned officers of the Public Health Service, to authorize the payment of accumulated and accrued annual leave in excess of 60 days, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 2201. An act amending section 2 of the act of March 3, 1901 (31 Stat. 1449), to provide basic authority for the performance of certain functions and activities of the National Bureau of Standards, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 2240. An act to authorize certain personnel and former personnel of the United States Coast Guard and the United States Public Health Service to accept certain gifts tendered by foreign governments; to the Committee on Merchant Marine and Fisheries.

S. 2298. A act to authorize the Administrator of Veterans' Affairs to convey certain lands and to lease certain other land to Milwaukee County, Wis.; to the Committee on Veterans' Affairs.

S. 2380. An act to provide more efficient dental care for the personnel of the United States Army and the United States Air Force; to the Committee on Armed Services.

S. J. Res. 24. Joint resolution to provide for a suitable and adequate system of timber access roads to and in the forests of the United States; to the Committee on Agriculture.

S. Con. Res. 55. Concurrent resolution favoring the suspension of deportation of certain aliens; to the Committee on the Judiciary.

S. Con. Res. 58. Concurrent resolution favoring the suspension of deportation of certain aliens; to the Committee on the Judiciary.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mrs. NORTON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 91. An act to provide for a research and development program in the Post Office Department;

H. R. 242. An act to provide for the conferring of the degree of bachelor of science upon graduates of the United States Merchant Marine Academy.

H. R. 579. An act to permit the motor vessel *FLB–5005* to engage in the fisheries;

H. R. 607. An act for the relief of Harvey M. Lifset, formerly a major in the Army of the United States;

H. R. 637. An act for the relief of Mrs. Harriett Patterson Rogers;

H. R. 691. An act for the relief of Lawrence Fontenot;

H. R. 748. An act for the relief of Louis Esposito;

H. R. 1017. An act for the relief of John Aaron Whitt;

H. R. 1023. An act for the relief of Lois E. Lillie;

H. R. 1034. An act for the relief of the Jansson Gage Co.;

H. R. 1055. An act for the relief of Agnese R. Mundy;

H. R. 1069. An act for the relief of Albert Burns;

H. R. 1075. An act for the relief of Harry C. Metts;

H. R. 1154. An act to provide authorization for additional funds for the extension and improvement of post-office facilities at Los Angeles, Calif., and for other purposes;

H. R. 1282. An act for the relief of Mrs. T. A. Robertson;

H. R. 1459. An act for the relief of E. Neill Raymond;

H. R. 1516. An act to amend the act entitled "An act to reclassify the salaries of postmasters, officers, and employees of the postal service; to establish uniform procedures for computing compensation; and for other purposes", approved July 6, 1945, so as to provide annual automatic within-grade promotions for hourly employees of the custodial service;

H. R. 1619. An act for the relief of Saint Elizabeth Hospital, Yakima, Wash., and others;

H. R. 1679. An act for the relief of Mrs. Skio Takayama Hull;

H. R. 1720. An act to provide for the conveyance of certain land in Missoula County, Mont., to the State of Montana for the use and benefit of Montana State University;

H. R. 1857. An act for the relief of the estate of Josephine Pereira;

H. R. 1993. An act for the relief of Samuel Padem;

H. R. 2095. An act for the relief of the estate of Kenneth N. Peel;

H. R. 2214. An act to provide for the development, administration, and maintenance of the Suitland Parkway in the State of Maryland as an extension of the park system of the District of Columbia and its environs by the Secretary of the Interior, and for other purposes;

H. R. 2239. An act for the relief of the estate of W. M. West;

H. R. 2253. An act for the relief of the legal guardian of Arthur Earl Troiel, Jr., a minor;

H. R. 2344. An act for the relief of Charles W. Miles;

H. R. 2456. An act for the relief of Charlie Hales;

H. R. 2572. An act to extend to commissioned officers of the Coast and Geodetic Survey the provisions of the Armed Forces Leave Act of 1946;

H. R. 2602. An act for the relief of John B. Boyle;

H. R. 2608. An act for the relief of C. H. Dutton Co., of Kalamazoo, Mich.;

H. R. 2662. An act to grant time to employees in the executive branch of the Government to participate, without loss of pay or deduction from annual leave, in funerals for deceased members of the armed forces returned to the United States for burial.

H. R. 2704. An act for the relief of Freda Wahler;

H. R. 2806. An act for the relief of Paul C. Juneau;

H. R. 2807. An act for the relief of Loretta B. Powell;

H. R. 2869. An act to authorize an appropriation in aid of a system of drainage and sanitation for the city of Polson, Mont.;

H. R. 2925. An act for the relief of Ida Hoheisel, executrix of the estate of John Hoheisel;

H. R. 2931. An act to provide for the conveyance by the United States to Frank C. Wilson of certain lands formerly owned by him;

H. R. 3139. An act for the relief of James B. DeHart;

H. R. 3193. An act for the relief of Public Utility No. 1, of Cowlitz County, Wash.;

H. R. 3408. An act for the relief of Opal and D. A. Hayes;

H. R. 3461. An act for the relief of Lester B. McAllister and others;

H. R. 3501. An act for the relief of Nelson Bell.

H. R. 3511. An act to declare the waterway (in which is located the Brewery Street Channel) from Brewery Street southeastward to a line running south 33°53'36" west from the south side of Chestnut Street at New Haven, Conn., a nonnavigable stream;

H. R. 3756. An act to amend the Civil Service Retirement Act of May 29, 1930, to provide that the annuities of certain officers and employees engaged in the enforcement of the criminal laws of the United States shall be computed on the basis of their average basic salaries for any five consecutive years of allowable service;

H. R. 3788. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Vermejo reclamation project, New Mexico;

H. R. 4097. An act for the relief of George M. Bersley, Edward D. Sexton, and Herman J. Williams;

H. R. 4138. An act for the relief of Herbert L. Hunter;

H. R. 4307. An act for the relief of Ever Ready Supply Co. and Harold A. Dahlborg;

H. R. 4366. An act for the relief of Pearson Remedy Co.

H. R. 4854. An act for the relief of Mrs. Miriam G. Wornum;

H. R. 4948. An act relating to the policing of the building and grounds of the Supreme Court of the United States;

H. R. 5034. An act to authorize the taxation of Indian land holdings in the town of Lodge Grass, Mont., to assist in financing a municipal water supply and sewerage system;

H. R. 5114. An act to amend the Internal Revenue Code to permit the use of additional means, including stamp machines, for payment of tax on fermented malt liquors, provide for the establishment of brewery bottling house on brewery premises, and for other purposes;

H. R. 5188. An act to provide for the preparation of a plan for the celebration of the one hundredth anniversary of the building of the Soo locks;

H. R. 5287. An act to amend title 28, United States Code, section 90, to create a Swainsboro Division in the southern district of Georgia, with terms of court to be held at Swainsboro;

H. R. 5365. An act to provide for the transfer of the vessel *Black Mallard* to the State of Louisiana for the use and benefit of the department of wildlife and fisheries of such State;

H. R. 5831. An act to exempt certain volatile fruit-flavor concentrates from the tax on liquors;

H. J. Res. 188. Joint resolution to provide for the coinage of a medal in recognition of the distinguished services of Vice President ALBEN W. BARKLEY; and

H. J. Res. 242. Joint resolution extending for 2 years the existing privilege of free importation of gifts from members of the armed forces of the United States on duty abroad.

ADJOURNMENT

Mr. SMITH of Virginia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 6 minutes p. m.) the House adjourned until tomorrow, Thursday, August 11, 1949, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

846. A communication from the President of the United States transmitting a draft of a proposed provision pertaining to the fiscal year 1950 providing for a transfer of funds within the National Military Establishment (H. Doc. No. 298); to the Committee on Appropriations and ordered to be printed.

847. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the fiscal year 1950 in the amount of $7,675 for the Department of the Interior (H. Doc. No. 297); to the Committee on Appropriations and ordered to be printed.

848. A letter from the Under Secretary of the Interior, transmitting copies of the Statement of Fiscal Affairs of Indian Tribes for the fiscal year ending June 30, 1948; to the Committee on Public Lands.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LYLE: Committee on Rules. House Resolution 322. Resolution for consideration of H. R. 5557, a bill to provide for coordination of arrangements for the employment of agricultural workers, admitted for temporary agricultural employment from foreign countries in the Western Hemisphere, to assure that the migration of such workers will be limited to the minimum numbers required to meet domestic labor shortages, and for other purposes; without amendment (Rept. No. 1242). Referred to the House Calendar.

Mr. FRAZIER: Committee on the Judiciary. S. 259. An act to discontinue divisions of the court in the district of Kansas; with an amendment (Rept. No. 1243). Referred to the Committee of the Whole House on the State of the Union.

Mr. GORSKI of Illinois: Committee on the Judiciary. H. R. 2166. A bill to amend title 28, United States Code, section 456, so as to increase to $15 per day the limit on subsistence expenses allowed to justices and judges while attending court or transacting official business at places other than their official station, and to authorize reimbursement for such travel by privately owned automobiles at the rate of 7 cents per mile; with an amendment (Rept. No. 1244). Referred to the Committee of the Whole House on the State of the Union.

Mr. KEATING: Committee on the Judiciary. S. 1949. An act to authorize the lease of the Federal correctional institution at Sandstone, Minn., to the State of Minnesota; without amendment (Rept. 1245). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FORD:

H. R. 5948. A bill to amend the Army and Air Force Vitalization and Retirement Equalization Act of 1948; to the Committee on Armed Services.

By Mr. KEEFE:

H. R. 5949. A bill to amend section 2410, United States Code; to the Committee on the Judiciary.

By Mr. WOLCOTT:

H. R. 5950. A bill to establish the United States Air Academy at Selfridge Field, Mount Clemens, Mich.; to the Committee on Armed Services.

By Mr. DAWSON:

H. R. 5951. A bill to amend section 3 of the Travel Expense Act of 1949; to the Committee on Expenditures in the Executive Departments.

By Mr. HERTER:

H. R. 5952. A bill to provide for the lease of the Belasco Theater to the American National Theater and Academy for the presentation of theatrical and musical productions, and for other purposes; to the Committee on Public Works.

By Mr. JUDD:

H. R. 5953. A bill to authorize contributions to Cooperative for American Remittances to Europe, Inc.; to the Committee on Foreign Affairs.

By Mr. SECREST:

H. R. 5954. A bill to provide for the erection of headstones in family cemetery plots in memory of certain members of the armed forces missing, missing in action, or buried at sea; to the Committee on Armed Services.

By Mr. WILSON of Oklahoma:

H. R. 5955. A bill to amend the Army and Air Force Vitalization and Retirement Equalization Act of 1948; to the Committee on Armed Services.

By Mr. BLATNIK:

H. R. 5956. A bill to provide a method of financing the acquisition and construction by the city of Duluth of certain bridges across the Saint Louis River, and for other purposes; to the Committee on Public Works.

By Mr. DONOHUE:

H. R. 5957. A bill to raise the minimum wage standards of the Fair Labor Standards Act of 1938; to the Committee on Education and Labor.

By Mr. MULTER:

H. R. 5958. A bill to provide that pension, compensation, and retirement pay shall be paid during periods of active service and the amount thereof deducted from the amount payable for such active service; to the Committee on Veterans' Affairs.

By Mr. RANKIN:

H. J. Res. 336. Joint resolution to direct the Administrator of Veterans' Affairs to construct certain additional hospital beds and for other purposes; to the Committee on Veterans' Affairs.

By Mr. McMILLAN of South Carolina:

H. J. Res. 337. Joint resolution extending the time for payment of the sums authorized for the relief of the owners of certain properties abutting Eastern Avenue in the District of Columbia; to the Committee on the District of Columbia.

By Mr. SABATH:

H. Res. 323. Resolution creating a select committee to conduct an investigation and study of the use of chemicals, pesticides, and insecticides in and with respect to food products, and for other purposes; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. McKINNON:

H. R. 5959. A bill for the relief of Predrag Mitrovic; to the Committee on the Judiciary.

By Mr. SANBORN:

H. R. 5960. A bill for the relief of Lt. Comdr. Evan L. Krogue; to the Committee on the Judiciary.

By Mr. STOCKMAN:

H. R. 5961. A bill for the relief of Marco Murolo and his wife, Romana Pellis Murolo; to the Committee on the Judiciary.

By Mr. TACKETT:

H. R. 5962. A bill for the relief of Houston Morris Warnix; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1398. By Mr. SADLAK: Resolution of the Connecticut Council of Women's Republican Clubs urging the Connecticut Members of the Congress of the United States to endeavor to obtain prompt consideration of the recommendations of the Hoover Commission as submitted to the Congress, and to support all necessary and proper legislation which will most effectively carry forward these recommendations; and urging the President of the United States and his various subordinates in the executive department to cooperate and act at once to put into effect the findings, reforms, and changes recommended by the Commission on Organization of the Executive Branch of the Government; to the Committee on Expenditures in the Executive Departments.

SENATE

THURSDAY, AUGUST 11, 1949

(Legislative day of Thursday, June 2, 1949)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

Rev. Bernard Braskamp, D. D., pastor of the Gunton Temple Memorial Presbyterian Church, Washington, D. C., offered the following prayer:

Eternal God, may this be a day when we shall be supremely conscious of Thy presence, Thy peace, and Thy power.

Make us grateful for all our blessings; for the joys which cheer us and the trials which teach us to put our trust in Thee; for good hopes and precious memories; for tasks and responsibilities which challenge the consecration of our noblest manhood; for opportunities to serve our generation and make life less difficult for the needy members of the human family.

Grant that we may seek to have a large part in directing and fashioning the character and conduct of men and nations according to Thy holy will. May the pattern of the Kingdom of God, with its principles of the fatherhood of God and the brotherhood of man, become the plan for the building of a better world.

To Thy name we ascribe the praise. Amen.

THE JOURNAL

On request of Mr. LUCAS, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, August 10, 1949, was dispensed with.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that on August 10, 1949, the President had approved and signed the following acts:

S. 111. An act for the relief of Mrs. Pearl Shizuko Okada Pape;

S. 317. An act for the relief of Margita Kofler;

S. 755. An act to extend the time for commencing and completing the construction of a bridge across the Ohio River at or near Shawneetown, Ill.;

S. 803. An act to provide for the conveyance of a tract of land in Prince Georges County, Md., to the State of Maryland for use as a site for a National Guard armory and for training the National Guard or for other military purposes;

S. 905. An act for the relief of John Sewen;

S. 1137. An act to revise and codify laws of the Canal Zone regarding the administration of estates, and for other purposes; and

S. 1577. An act to revive and reenact, as amended, the act entitled "An act creating the City of Clinton Bridge Commission and authorizing said commission and its successors to acquire by purchase or condemnation and to construct, maintain, and operate a bridge or bridges across the Mississippi River at or near Clinton, Iowa, and at or near Fulton, Ill.," approved December 21, 1944.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the joint resolution (H. J. Res. 208) to amend the joint resolution creating the Niagara Falls Bridge Commission, approved June 16, 1938.

The message also announced that the House had passed a bill (H. R. 5856) to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint